



**GOVERNMENT HOUSING SUBSIDY: EXPLORING THE ADMINISTRATION  
PROCESSES IN THE DISPENSATION OF TITLE DEEDS IN KWA-MASHU**

**BY**

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## DECLARATION

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## **DEDICATION**

I dedicate this thesis to my late father Mr Abion Mphumzeni Magagula who left me when I was two years, thank you for bringing me into this world. I'm proud to say I am a real man now to face reality - you will always be in my heart. May your soul rest in peace Mthombeni!

## ABSTRACT

The low-cost housing scheme was an initiative of the new government soon after the first democratic election in 1994. Since then the demand for low-cost housing is ever escalating and the government has never managed to get rid of the backlogs. Along with this problem is also another issue, the delays in the processing of title deeds for the beneficiaries of these low-cost houses. Findings of this study suggest that many beneficiaries of the low-cost housing scheme do not possess this important document: the title deed. This study investigated this issue, the causes of the delays in the processing of title deeds by the relevant officials. The main objective of the study was to establish why many beneficiaries do not have title deeds and what the repercussions for such a situation are. To achieve this, questionnaires were distributed to officials responsible for the processing of title deeds, as well as to the community members who have benefited from the scheme but have not yet received title deeds. The findings of the study revealed that although it should take between a few weeks and three months to process title deeds, it was clear that some community members have not yet received title deeds even though they were allocated these houses more than 16 years ago. The relevant authorities pointed to a number of issues as causing the delays in the processing of title deeds. These include the fact that the beneficiaries submit wrong documentation for processing, delays in the establishment of township registers, incorrect drawing up of deeds and delays on the part of municipalities in releasing figures required for rates clearance certificate. On the other hand, the community members who participated indicated that some officials deliberately delay the process with a view to fulfilling personal interests through fraudulent activities. Further, it was revealed that the absence of title deeds makes the beneficiaries live in fear of being evicted from the properties that they have been allocated because they do not have the legal document to claim ownership of the property. Given these findings the study recommends that government should make efforts to deal with backlogs in the processing of title deeds and one way of doing this is to invest in the skills and knowledge of the administrative authorities as they seem to be inadequately resourced in this regard.

**Key words:** *low cost housing; title deeds; administrative processes*

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## **LIST OF ACRONYMS**

ANC:	African National Congress
ASGI-SA:	Accelerated and Shared Growth Initiative-South Africa
CBD:	Central Business District
ECPHS:	Eastern Cape Province Human Settlement
GEAR:	Growth, Employment and Redistribution
IDP:	Integrated Development Programme
IRDP:	Integrated Residential Development Programme
MEC:	Member of the Executive Council
PSC:	Public Service Commission
RDP:	Reconstruction Development Programme
SALGA:	South African Local Government Authority
SERI:	Socio-Economic Rights Institute

# **CHAPTER 1**

## **INTRODUCTION**

### **1.1 INTRODUCTION**

The South African government initiated the National Housing Programme in 1994, with the aim of “facilitating an environment that provides sustainable human settlements”. This housing subsidy scheme promised to provide a million houses within five years of its launch. The focus of the low-cost housing scheme was to be on those citizens who cannot afford to buy houses. In particular, it was the people living in the informal settlements who were earmarked for the provision of the proper low-income housing. By the 2010/11 financial year, it was reported that an approximate of 3, 25 million houses and serviced sites had been subsidized through various mechanisms and mainly Project Linked Subsidy (now the Integrated Residential Development Programme) (Department of Human Settlement, 2011).

The programme saw some qualifying individuals being provided with small, low-cost houses at a minimal charge and others free of charge but on an ownership basis. These are often called the Reconstruction Development Programme (RDP) houses. The main element of the subsidy programme was that those who benefited on an ownership basis would have title deeds processed for them to legally own the property. Title deeds in this case were regarded as critical to ensure security of the tenure. The “Comprehensive Plan for the Development of Sustainable Human Settlements”, now commonly known as the “Breaking New Ground” (2009) highlighted the need for the beneficiaries of the low-cost housing scheme to be formally titled to the tenure. The Comprehensive Plan explicitly indicated that legal title, as registered in “a central, deeds registry, is critical to enable a functioning housing market, that it creates certainty unchallengeable in legal transactions and provides “a central, unchallengeable repository of ownership”. In addition to the above, the beneficiaries could consider the house as an asset from which they could build wealth.

However, despite this, the processing of title deeds for the beneficiaries of the low-income housing scheme has encountered many challenges. The focus of this study is to explore the administrative factors contributing to the delays in the processing of title deeds for the low-income housing scheme. Using the case of Siyanda informal settlement in Kwa-Mashu

township of KwaZulu – Natal province, the study further aimed at establishing the impact or effect of these delays on the citizens living in this informal settlement.

In that view, this chapter provides an overview of the study. The background information to the study, the rationale for the study, the aims and objectives of the study, are highlighted in this chapter. The conceptual framework, the significance of the study and a brief overview of the methodology used are also discussed in this chapter. Importantly, a definition of the key terms underpinning the study is provided.

## **1.2 BACKGROUND INFORMATION**

Section 26 of the South African Constitution (1996) provides for the importance of the low-income housing, highlighting that “everyone has the right to have access to adequate housing...The state must take reasonable legislative and other measures with its available resource, to achieve the progressive realisation of this right”. Beginning 1994, a number of policies and statutory developments have been put in place to ensure the implementation of the low-income housing. These include the Reconstruction and Development Programme (RDP) in 1994, the Growth, Employment and Redistribution (GEAR) strategy of 1996, the Accelerated and Shared Growth Initiative-South Africa (ASGI-SA) of 2005, the Housing Act of 1997 and the National Housing Policy and Subsidy Programmes of 2010. The White Paper for Housing which was published in December 1994 outlines the fundamental principles of the government’s housing policy. The White Paper guides all the developments in respect of housing policy and implementation. The South African government initiated a comprehensive review for low-income housing outcomes from 1994 to 2004, which resulted in the initiation of the Comprehensive Plan for the Development of Sustainable Human Settlement in 2004.

The Housing Act was promulgated in 1997 in support of the White paper on Housing of 1994. This Act defines the functions of National, Provincial and Local government in respect of housing developments and it lays down the general principles for housing development in all spheres of government. The National Housing Code was also promulgated in the year 2000, in support of the Housing Act and the White Paper on Housing and later in 2009, the National Housing Code was revised (Subsidy Programmes, 2010). These legislative frameworks, policies and service delivery programmes are an attempt to meet the social

needs, but a number of challenges, including the high rate of South Africans without shelter and the levels of poverty, are continuously rising (Gilbert, 2004). Amongst the problems that are facing the South African government is the shortage of housing for the low-income citizens. In order to address the housing shortage and the issue of affordability, the South African government instituted a number of programmes and mechanisms to assist the lower-income households (Aye, Balcilar, Bosch & Gupta, 2014). These include a free housing subsidy system and other social development programmes to empower the historically disadvantaged South Africans (Daniel & Hunt, 2014).

### **1.3 PROBLEM STATEMENT**

A study conducted by the Public Service Commission (PSC) regarding the National Housing Subsidy Scheme in the past decade revealed that 15% of the occupants of the low-income housing are not the legal owners (PSC, 2003). The results of the study indicated that in many of the completed low-income housing subsidy projects, a few of the beneficiaries had received title deeds (PSC, 2003). More than a decade later, the problem still remains the same. Siyanda informal settlement in Kwa-Mashu township is one of those areas with low-income housing where the occupants do not have title deeds which permit them to occupy these low-cost houses. When the beneficiaries were allocated to these houses, the allocation list from the local councillor was used. However, most of the beneficiaries of these low-income houses do not have formal title deeds. The exact number of subsidy beneficiaries who do not have title deeds to their properties in South Africa is not known but, based on the current evidence, it is estimated that just over one third, or between 1.1 million and 1.4 million subsidy beneficiaries do not have the title deeds to their properties (Gordon *et al.*, 2011: 13). The other evidence identified is that, it is assumed that 35% of owners of subsidised homes, and using current delivery figures (3.25 million), it amounts to 1.4 million properties (Gilbert, 2014). It has been noticed that due to the administrative delays in the processing of title deeds for the low-income housing, some of the beneficiaries are illegally selling these houses to other residents, sometimes more than two times to different citizens who are desperate to own a home of their own. When they receive cash from the prospective “new” owners of the houses, they refuse to vacate the houses. Some residents own more than two houses in the same area. Other residents generate income through leasing these houses (Brown, Ramabodu, Kotze & Verster, 2007). Given the abovementioned problems, notably

administrative matters, it is important to know some of the causes of the delays in the processing of title deeds by the Municipal Human Settlement Component, Conveyancer and Deed Office.

#### **1.4 RATIONALE FOR THE STUDY**

It is a fact that in South Africa and many other African countries which are experiencing rapid urbanization, housing is a highly contentious and politicized issue because of the high demand in that sector and because it is a basic human right. The South African society is becoming more urbanized. At the same time, the country has to deal with the previously racially and unequally stratified patterns of settlements, a result of the apartheid legacy. The housing backlog and the slow rates of the formal provisioning of housing is evident in the country, given the statistics provided earlier in this chapter. The consequences of the backlogs and shortages are also evidenced as - the escalating informal settlements, overcrowding, the illegal land invasions in some parts of urban areas and the increased crime rates (White Paper on Housing, 1994). Amongst the major service delivery problems in South Africa is the issue of housing provision. Phosa (1999: 56) described the situation in this way:

*In short, the more recent social and political context is as follows: South Africa's first democratic government came to office in 1994, committed to move rapidly with its Reconstruction and Development Program to redress the socio-economic legacies of apartheid. Education, health services, housing and job creation were to be its priorities.*

The above assertion indicates a political commitment, as well as a constitutional mandate on the part of government officials to ensure adequate housing to the citizens of the country. This study is therefore motivated by the need to help find developmental answers to the housing service delivery problem in South Africa. The reason is that most South African low-income families are not able to financially provide for their own needs, more especially housing needs (White Paper on Housing, 1994). In that view, this study aims to identify some of the challenges associated with the processing of title deeds by these three institutions. The study therefore has the following aims and objectives.

## **1.5 AIMS AND OBJECTIVES OF THE STUDY**

In the main, this study seeks to establish the problems associated with the processing of title deeds for the low-cost houses subsidised by the government. The study aims to establish the reasons for the delays in the processing of title deeds for the beneficiaries of these houses. Thus, the study seeks to answer the following research questions.

### **1.5.1 Research Questions**

- What are the causes of the delays in the processing of title deeds for the beneficiaries of low-cost housing?
- What criteria are used by the eThekweni Municipality to issue title deeds and what procedure is followed?
- What are the challenges experienced by the beneficiaries of the government subsidy houses that have no title deeds?
- What recommendations can be made with regards to the issuing of title deeds?

### **1.5.2. Research Objectives**

The study has the following objectives:

- To establish the reasons for the delays in the processing of title deeds for the beneficiaries of the low-income houses.
- To explore the administrative processes used by the municipality in issuing title deeds.
- To establish the experiences and challenges faced by the beneficiaries living in houses without title deeds.
- To make recommendations on improving the issuing of title deeds

## **1.6 SIGNIFICANCE OF THE STUDY**

This study is of social and political significance. In the main, the study seeks to establish some of the problems inherent in the Local Government (Municipality), Provincial Department of Human Settlement and the National Department Human Settlement, of which the findings of the study might help to “clean up” some of these issues. Having established the challenges associated with beneficiaries not having title deeds, the study might help in

addressing some of the problems identified and therefore, help improve service delivery in the housing sector. The study would also highlight the essence of the cooperative interaction between office bearers in the different spheres of government, so as to improve service delivery to community members. Perhaps the study might serve as an insight to policy makers with regards to how the housing policy might be improved to close the gaps currently causing mayhem in the processing of title deeds. To the municipal officials, the study might serve to conscientise them on the essence of monitoring the performance of the personnel vested with the responsibility of housing services delivery. When the above can be effected, the implication to the community members is that of a better and improved service delivery.

## **1.7 METHODOLOGY**

The methodology for this study is discussed in depth in Chapter 3; hence, this section provides an overview of the methodology. The study is qualitative in nature and exploratory in practice. Qualitative studies seek to get answers from those involved, the “actors” and in this case, the actors are the officials involved in the processing of title deeds and the beneficiaries of the low-cost houses. Therefore, qualitative answers would be sought from these two categories of people, establishing what they think are the causes of the poor service delivery in terms of processing title deeds. From the beneficiaries, the answers sought aim to establish some of the challenges that they face as a result of not having title deeds. The target population for this study are the residents of Siyanda informal settlement in Kwa-Mashu Township and the reason for choosing this is that from the researcher’s experience and as one of the residents of the place, most of these residents do not have title deeds. The other group of respondents for this study includes the officials involved in the processing of title deeds. These are officials from eThekweni Municipality’s Human Settlement unit, Conveyancers and officials from Deed office. This means that purposive sampling would be applied, as the answers for this study have to come from the people who are knowledgeable about the subject under investigation. In this case, the beneficiaries and the officials are the people who can provide the answers for the research questions. In that view, questionnaires were distributed to eight beneficiaries of the housing scheme. A different questionnaire was distributed to three officials from eThekweni Municipality Human Settlement component, three staff members from Deed Office and three Conveyancers. In total, seventeen participants participated in the study. Data collected from the participants was analysed



through thematic analysis. This entailed identifying, analysing and reporting patterns (themes) within data.

## **1.8 DEFINITION OF KEY TERMS**

### **1.8.1. Title deeds**

A title deed is an official housing document which gives the owner legal proof of ownership. Processing such documents, takes place between Municipal Human Settlement Component, Conveyancer and Deed Office (Husin, Nawawi, Ismail & Khalil, 2012).

### **1.8.2. Informal Settlement**

This refers to places of dwellings which have not been planned or surveyed and formalised into residential areas. The dwellings in these areas are therefore informal.

## **1.9 STRUCTURE OF DISSERTATION**

Chapter 1 gave an overview of the study. Important elements like the background information to the study, the problem statement and the significance of the study were described. The aims and objectives of the study were also described. Chapter 2 discusses literature relevant to the study. The chapter discusses the following important elements: the meaning of title deeds, the housing situation in South Africa, the legislation on housing in South Africa, as well as the roles of the three spheres of government in the housing service delivery. Chapter 3 discusses the methods through which data were collected to answer the research questions. The qualitative methodology is discussed in depth. Target population and sampling are also discussed. Chapter 4 discusses the findings of the study. Lastly, Chapter 5 presents the conclusions and recommendations of the study, based on the findings discussed in Chapter 4.

## **CHAPTER 2**

### **CONCEPTUAL ISSUES AND LITERATURE REVIEW**

#### **2.1. INTRODUCTION**

Having discussed the purpose of the study in the previous chapter, this chapter reviews the relevant literature to the study. The purpose of reviewing literature is to enable a more understanding and appreciation of the concept or the subject under study, in this case, the issue of housing and title deeds. In that view, the following issues are covered in this chapter: the conceptual, as well as the theoretical frameworks of the study, the housing situation in South Africa, the issue of housing subsidy, the legislation surrounding housing in South Africa, as well as the role of different stakeholders in the housing service delivery. The problems associated with the delivery of housing in the country are discussed and key among them is the non-issuing or the delays in the delivery of title deeds. The section that follows describes the conceptual framework of the study: the public administration thesis.

#### **2.2. CONCEPTUAL FRAMEWORK: THE PUBLIC ADMINISTRATION THESIS**

Defining public administration is not an easy undertaking, but the process includes an understanding of the basic element of the generic concept of administration, which is the integrated effort towards the attainment of common goals. Administration occurs in various organisational settings. Public administration is thus a characteristic of administration which occurs in specific political set ups. Nigro and Nigro (1973: 18) defined public administration as “the action part of government, the means through which the purposes and goals of government are realised, is cooperative group effort in a public setting, covers all three branches-executives, legislative and judicial and their interrelationship, has an important role in the formulation of public policy and is thus a part of the political process, is different in significant ways from private administration. As a field of study and practices, it has been much influenced in recent years by the human relations approach and is closely associated with numerous private groups and individuals in providing services to the community”. In simple terms, public administration entails making decisions, planning what needs to be done, formulating goals and objectives, working in partnership with citizen organisations for

public support, providing leadership, communicating, directing employees, among other things. Public administration is therefore about providing services to the public.

On that note, the public officials are expected to respect the rights of the citizens, as stipulated by the Constitution (1996) that the public must be treated fairly, while the public officials ought to conduct themselves according to the rule of law. The role of the public officials is to ensure that they apply the policies and legal requirements according to the required standards, while at the same time ensuring that government institutions adhere to these policies. While doing this, the officials have to be efficient, effective and use resources economically and efficiently (Constitution, 1996). From the above description, it is clear that public administration is about governance, service delivery and managerial leadership. The tenets of public administration are highlighted below:

- **Political supremacy:** public officials and political office-bearers should carry out their duties in full knowledge that the legislature has been authorized to oversee their sphere of work. This means that public institutions cannot change their functional activities without authority from the legislature.
- **Public accountability:** public officials ought to be responsible when executing their duties, meaning that they are accountable to the public, should their code of conduct be below reproach. It also entails submitting annual reports to the legislature through portfolio committees.
- **Tenets of democracy:** in line with democracy, public officials should not abuse powers vested on them to pursue their own interests or those of a particular group of people. In all their activities, transparency should prevail. For instance, those in the financial department should ensure the budget is presented to the legislature and is debated by the public. In other words, public administration should occur in such a way that observes the rule of law: people exercising their rights and not prejudicing those of others. This means that all citizens are equal before the law and should receive equal treatment.
- **Fairness and reasonableness:** the welfare of citizens should be promoted in a fair and reasonable manner. The Batho Pele (White Paper on service delivery) highlights the government's commitment in ensuring that citizens are treated fairly and equally.
- **Balanced decisions:** public officials' decisions should be regarded as balanced only when all matters have been taken into account, as decisions affect the public, either

directly or indirectly. Balanced decisions imply that every citizen should be treated equally before the law.

- **Thoroughness:** this means that public officials should be timeous in discharging their activities, should maintain high standards and ensure the provision of quality services. This entails high ethical conduct and delivering services to the public in an efficient and effective manner, in terms of resource utilisation. It also means that wasteful expenditure is prohibited
- **Probity:** when discharging their duties, public officials and political office bearers should not have ulterior motives, meaning that they are not supposed to personally gain or give certain groups of people preferential treatment. This highlights the essence of transparency. The public service regulations (1999) require that public officials do not abuse power for personal gain and any gains should be disclosed to avoid conflict of interest.
- **Efficiency and effectiveness:** efficiency entails satisfying the citizens' needs with the available limited resources. It also includes being accountable to the public. Effectiveness entails the impact caused by the delivered service or the service to be delivered. Efficiency and effectiveness are the backbone of governance and service delivery.
- **Legal rules and legality:** this has to do with respecting the normative code of conduct and the provisions of laws by public functionaries, who are not supposed to supersede their powers. Whatever actions and decisions they make should be justifiable (Cloete, 1981:9).

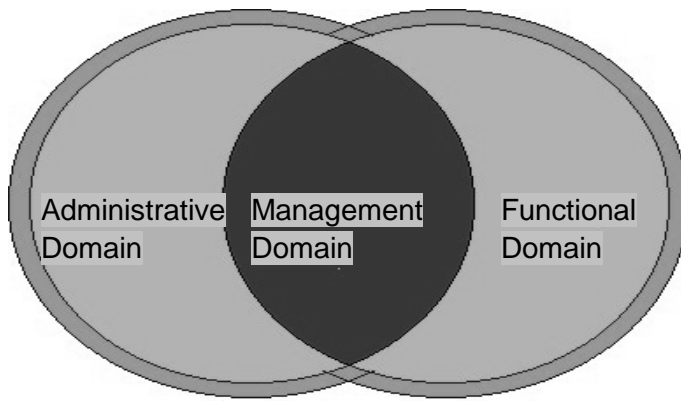
The tenets of public administration described above are essential for governance. It has been indicated that efficiency, effectiveness, accountability and fairness are central to governance and service delivery in public administration. This means that public officials should be responsible when delivering services to the public, while executing the policies of the government in an efficient and effective manner. This discussion brings to the fore the need to discuss the management theory of public administration, as it is relevant to this particular study. There are many theories of public administration, but only the management theory will be discussed in this section.

### **2.2.1 Management theory of public administration**

Management involves four aspects: planning, organizing, directing and controlling the activities and resources of an organisation. The role of management is to ensure that the organisation is directed towards its set objectives by ensuring the operations of the institution are in equilibrium with its surrounding environment (Hanekom & Thornhill, 1995). Botes (in Roux *et al.*, 1997) analysed the role of management in an organisation and noted the following:

- Besides their administrative and functional activities, public officials are vested with management responsibilities. This means that they are supposed to have certain leadership skills, which are mostly people oriented, so that they can direct their administrative functions.
- Management should possess specialised functional process to realise organisational goals
- Management entails a social process involving decision making, motivation, integration, guidance and judgment
- Management is not administration, but it is an element of administration

The description above indicates that management is also responsible for administrative functions, in addition to functional activities. This implies the dual responsibility of public service officials: making sure that administration is running effectively within departments, while other functional activities are being performed efficiently and effectively (Botes, cited in Roux *et al.*, 1997). Managerial skills should therefore be displayed in order to direct the organisational goals. Equally important in this regard is the people-centred leadership. Figure 2.1 is an illustration of the responsibilities of management.



**Figure 2.1: Responsibilities of management**

*Source:* Adapted from Botes, (in Roux *et al.*, 1997)

Expanding on Botes' analysis Gulick and Urwick (cited in Fry, 1989) argued that administration can only be effectively implemented if the organisation is structured around certain functions. They thus assigned several functions to the management in the acronym POSDCORB: meaning planning, organisation, staffing, directing, coordinating, reporting and budgeting (Fry, 1989). The acronyms are explained as follows:

- Planning: outlining what needs to be done and how
- Organizing: establishing formal structures of authority through which work would be arranged and coordinated
- Staffing: the personnel function of attracting and training staff for the execution of the organisational activities
- Directing: giving instructions and making decisions
- Co-ordinating: integrating the various elements of the organisation
- Reporting: keeping the staff informed and updated through inspection, research and records
- Budgeting: financial planning, record keeping and accounting Gulick and Urwick (1977).

The discussion in this section indicates that public administration is diverse and is a multidimensional field that involves personnel and its behaviour, leadership, accountability and policy management, to mention a few. This study thus explores which facets of administration particularly impact on the speed at which title deeds are processed. Having highlighted the conceptual framework of this study, the sections that follow are specific to the housing processes in South Africa, as stipulated by the relevant laws and institutions.

### **2.3. AN OVERVIEW OF THE HOUSING SITUATION IN SOUTH AFRICA**

When the new democratic government got into power in 1994, there was a major challenge of housing backlog, which the ruling party African Nation Congress had to deal with. Many citizens of the country were living in unfavorable conditions in the informal settlements due to housing shortage. The Housing White Paper (1994) indicated that:

*A relatively small formal housing stock, low and progressively decreasing rates of formal and informal housing delivery in South Africa have resulted in a massive increase in a number of households forced to seek accommodation in informal settlements, backyard shacks and in overcrowded conditions in existing formal housing...approximately 1.5 million urban informal housing units exist in South Africa at present [1994]. These include 620, 000 serviced sites delivered by the old Provincial Authorities...An estimated 5% of all households presently reside in private sector, grey sector 4 and public sector hostel accommodation...Approximately 13.5% of all households +- (1, 06 million) people live in squatter housing nationwide...*

The Housing White Paper (1994, 3.1.3 (b))

The above description highlights the major task that the ANC had to undertake: the provision of adequate housing to the majority of the citizens. In addition to this was the provision of other basic services like water, sanitation and electricity because these were also in short supply. To support this assertion, the South African Labour Development and Research Unit also noted that:

*...approximately one quarter of all functionally urban households in South Africa do not have access to piped potable water...48% of all households do not have access to*

*flush toilets...whilst 16% do not have access to any type of sanitation system... 46% of all households are not linked to the electricity supply grid...*

(The Housing White Paper, 1994, s 3.1.4(a)).

To address this scenario, the government embarked on the provision of housing through various programmes, policies and legislations, which will be discussed later in this chapter. It is however important to mention one of the most critical of the programmes, the Reconstruction and Development Programme (RDP), which was meant to address the housing backlog in the country. In 2014, the government published the Twenty-Year Review which reported that “...about 2.8 million houses and units, and just over 876 774 serviced sites, were delivered, allowing approximately 12.5 million people access to accommodation and a fixed asset” (The Presidency of the Republic of South Africa, 2014: 68). This indicates that the twenty years of democracy has ushered in some progress in terms of the RDP programme, despite many citizens still reeling under poor condition in the informal housing sector. This is true, with around 13% of the South African households (about 1,9 million) still living in the informal houses and shacks (Wilkinson, 2014). Despite the government intervention in providing low-income housing, the demand is increasing much faster than what the government can supply (Mukorombindo, 2014: 1). The Department of Housing (2004) summarized the situation this way:

*Provision of adequate housing for the homeless and others who are inadequately housed in an attempt to reduce poverty and improve quality of peoples' lives, has been a huge challenge to the South African government over the years. Over the years, this provision has been challenged and has resulted in an enormous housing backlog with poverty, unemployment, economic stagnation and negative behavior, together with financial constraints, making the task even more enormous. However, a large number of housing projects have been implemented throughout the country to deliver houses to the poor in order to fulfill a vision for adequate housing for all, as reflected in the National Housing Policy framework. Since 1994, housing in South Africa has undergone fundamental changes and 1 877 958 houses have been delivered.*

(Department of Housing, 2004)



It has to be acknowledged that the housing backlog is being addressed through the Comprehensive Housing Policy, which will be discussed later in this chapter. This is in support of the National Housing Code (2001) which stipulates the need for “sustainable housing and sustainable urban environment”. However, it also has to be mentioned that seemingly, the government is focusing more on providing housing for those in the urban areas, while giving less attention to citizens in the rural areas where development seems to be taking place at a snail pace. Having given an overview of the housing situation in the country, it is perhaps essential to go further and discuss the extent to which the government has managed to provide housing through the low-cost housing subsidy programme since 1994. The role played by public servants in implementing the government housing subsidy scheme cannot be over emphasized and it is important that a common understanding of this policy be established.

#### **2.4. WHAT ARE THE LOW-COST SUBSIDY HOUSES?**

It is a fact that most of the low-income households in South Africa cannot afford the costs of housing. The high levels of poverty and unemployment seem to be contributing to the inability to afford housing costs in the country. As a result, the South African government has been forced to intervene by providing housing subsidies to those families which are in dire need of such housing facilities (White Paper on Housing, 1994; Housing Act, 107 of 1997). According to the Housing Act, it

*...places emphasis on the development and improvement of various housing subsidy programmes. Amongst these programmes are rental and social housing subsidies. All of these subsidy programmes, including those linked to projects, are revised to ensure compliance with all the necessary procurement processes, consolidation subsidies, PHP, rural subsidies and institutional subsidies. The housing subsidies have increased by up to 11, 68%, according to the Department of Housing records... This meant that the scope of subsidies provided had seriously been broadened to cater for people with disabilities who receive additional amount to normal subsidy in order to enable them to make their homes disability friendly and accessible in accordance to*

*their physical needs. This is an indication of observing and showing respect for the right to dignity and a comfortable living environment for all citizens of the country*

(Housing Act, 107 of 1997).

The assertion above highlights the different subsidy programmes initiated by the government, these are described below.

#### **2.4.1. Project-linked subsidies**

Project-linked housing subsidies are grants which can be obtained from the government for the purpose of buying houses in any approved municipal housing projects. Successful applicants are awarded these subsidies, and then the records are kept by the municipality from which the house is bought (Housing Act, Act 107 of 1997).

#### **2.4.2. Individual subsidies**

These are subsidies which can be accessible to the low-income individuals who intend to buy residential property, including existing houses, especially those who wish to buy for the first time. Applicants who apply for this subsidy receive it only once and the money is paid directly to a conveyance attorney or a financial institution (Housing Act, Act 107 of 1997).

#### **2.4.3. Consolidation subsidies**

These are subsidies which can be applied for by groups, meaning that the beneficiaries should belong to a group which has a contract highlighting the goals of the project and how they are going to be achieved. The group is thus supposed to be represented by an organisation (community based) which would be responsible for the project (Housing Act, Act 107 of 1997).

#### **2.4.4. Institutional subsidies**

These are subsidies which can be awarded to organisations (registered companies, associations or co-operatives) which wish to start a housing project. This means that the houses built do not belong to individual beneficiaries but the organisation, which should own the houses for a minimum of four years before selling or transferring them to individual beneficiaries (Housing Act, Act 107 of 1997).

#### **2.4.5. Relocation assistance**

Relocation assistance is provided to eligible individuals who are currently struggling to pay for the home loans that they would have been given. The assistance thus provides an option for the defaulting borrowers, whereby they are given another chance to get affordable housing with the help of the housing subsidy. The eligible applicants should therefore sign an agreement to relocate to the house which they can afford (Housing Act, 107 of 1997).

#### **2.4.6. Discount benefit scheme**

This is a scheme meant to encourage ownership of houses amongst those tenants renting publicly- owned homes, which can be municipal or provincial. The discount aspect implies those who purchase the houses get a discounted selling price and are exempted from paying transfer costs (Housing Act, 107 of 1997).

#### **2.4.7. Rural subsidies**

This is a special housing subsidy developed for those beneficiaries who seek functional tenure rights on the land that they are occupying, especially in rural areas where most people do not have legal rights over the land that they claim to be their because they have been granted tenure by the customary laws. These tenures are protected by the Protection of Informal Land Rights Act (Housing Act, 107 of 1997).

#### **2.4.8. People's housing process**

This is a low-income housing scheme which encourages the engagement of the beneficiaries in developing their own houses. The process offers technical help and training to individuals and households owning serviced but undeveloped property but who wish to get a housing subsidy to build their own houses. The involvement of these people in the development of their own homes implies that they would spend less money because they would be contributing their effort and labour to the process, thus, they can build better houses at a lower expense (Housing Act, 107 of 1997).

#### **2.4.9. Subsidy for people with disabilities**

The disabled and the health-stricken individuals are also entitled to housing subsidies of any nature without having to contribute, despite them being earning more than R1 500 but less than R3 500. In addition to that, they are entitled to another amount which should cover the costs of any special structures that might be needed in their homes, for instance, if the

disabled person uses wheelchair, the cost of a wheelchair ramp must be covered (Housing Act, 107 of 1997).

Amongst the subsidy programmes described above, the project-linked subsidy has been the most common one. This subsidy involves approving housing projects which would have been proposed by developers and then beneficiaries from the waiting list are allocated to the housing project. The developers are the ones who identify and structure the land before they implement the housing project. In the process, they are expected to meet certain requirements and specification hence, the process is closely monitored and controlled before the developers draw the subsidy amount. When that has been done, the last milestone is to register the beneficiary in form of a title deed and the beneficiary is given a “happy letter”.

In 2009, the project-linked subsidy was replaced by the Integrated Residential Development Programme (IRDP), whereby the municipality had to take the roles and responsibilities of the developer. In the event that the municipality is incapacitated in terms of finance, technical and managerial expertise, the provincial government would take up this role (Housing Act, 107 of 1997). As developers, municipalities were mandated to appoint the professionals and contractors to do the designing and the establishment of the township, the monitoring of the installation services, as well as the designing of the houses. In that view, the municipalities apply for financial assistance from the MEC who also assess the various elements of the project prior to approving the funds. When the housing construction is completed, the beneficiaries who qualify for the houses are supposed to be handed the houses formally through the title deed. Unfortunately, the common scenario with most of the subsidy houses is that most beneficiaries do not have title deeds to the properties that they have been allocated. This study aims to establish some of the reasons behind this dilemma.

By the end of the 2010/11 financial year, the Department of Human Settlements estimated that about 3, 25 million houses have been allocated to the subsidy beneficiaries (Department of Human Settlements, 2011). The ‘Comprehensive Plan for the Development of Sustainable Human Settlements’ (2004), which is the Department’s policy document, reported that about 35% of subsidized houses (at the time of the report), were given to the beneficiaries without the proper registration, that is, without formal title. The above percentage was confirmed in 2011 when a submission was made to the Portfolio Committee on Human Settlements. The Beneficiary Occupancy Audit (2009/2010) on 262 686 households in six provinces reported that the extent of title deeds provision varied from 22 to 54%, with an average of 36% across

the provinces (Department of Human Settlements, 2011). In September 2010, FinMark Trust found that out of the 3, 2 million people who were approved for housing subsidies since 1994, 1,48 million of those never owned property. This means that these people were approved for housing subsidies, but it is either they never received the property, or they were given property without title deeds (Urban LandMark, 2011: 13). Given these statistics, one of the objectives of this study is to establish the reasons behind the delays in the processing or transfer of title deeds to the subsidy beneficiaries.

## **2.5. THE EXTENT OF DELIVERY OF THE LOW-COST HOUSING IN SOUTH AFRICA**

A high number of Black South Africans is living below the poverty datum line, with about seven million people living in shacks or informal settlements (Herve, 2009). In addition to that, most of these people do not have access to basic services like water and electricity, either because they are not connected to the grid, because they are living in informal settlements, or they have been cut off because they cannot afford to pay for such services. The fact that some citizens are living in the informal settlements indicates a serious problem of housing shortage, despite millions of people (7 to 8, 5 million) having been provided with housing in the past ten years (Financial & Fiscal Commission, 2012). In 2010, the then Minister of Human Settlement, Mr. Tokyo Sexwale noted that the informal settlements had increased to more than 2 700 slums, with some of them being occupied by White people. This assertion indicates that the housing crisis is every citizen's problem, despite skin colour. In 2012, the housing backlog was approximately more than 2, 3 million (FFC, 2012). The extent of housing backlog is indicated in the table below.

**Table 2.1: The South African Housing Backlog (1996-2011)**

<b>YEAR</b>	<b>HOUSING BACKLOG</b>	<b>SUBSIDY GRANTED</b>
1996	1,5 Million	R14 000
2001	1,8 Million	R22 000
2011	2,3 Million	R84 000

**Source:** the Financial & Fiscal Commission, 2012:13

The table above clearly indicates that despite the government's efforts at providing housing, the backlog is increasing, thus, confirming the statement made earlier that the demand is

growing at an alarming rate while on the supply side, the government cannot afford to keep up or meet the housing demand. In 2007, the then Minister of Human Settlements, Mr. Tokyo Sexwale, pointed that by 2016, about R253 billion would be needed to deal with the housing backlog which is growing in “leaps and bounds”, according to the Minister in his 2010 Budget Speech (Tissington, 2011). The Minister noted that “Being mindful of the current pace of housing delivery (at a rate of ten percent per annum) and the shortage of resources, it would take decades to clear the backlog” (Sexwale, 2010: 3). In this regard, the Minister called for shared efforts to ensure sustainable housing, indicating that the government cannot afford to sustain the “current practice” of housing provision (Ramovha, 2012). In calling for the collective efforts to sustain the situation, President Jacob Zuma argued that:

*We cannot sustain a situation where social grants are growing all the time and think it can be a permanent feature. The government cannot afford to indefinitely pay social grants to people who are not elderly and who have no physical defects. It cannot be that people with bodies which had no defects ‘form part of the army of those who are in poverty’ (Ramovha, 2012: 4).*

The above assertions clearly indicate that the government has to come up with strategies meant to effectively solve the increasing demand for housing. In that view, the next section highlights the low-income housing programme in KwaZulu-Natal. This is important to provide a picture, or perhaps to shade more light with regards to the objective of the study: to establish the reasons for the delays in the processing of title deeds for the beneficiaries of the low-income housing subsidies in Siyanda area Kwa-Mashu township.

Being the second largest province in terms of population, the province is not spared by challenges affecting the provision of housing: the high levels of poverty and unemployment (KwaZulu-Natal Planning Commission, 2011). According to the General Household Survey Report (2011), around 12,1% of the South African households are sheltered in informal housing, while 7,3% of this figure is in KZN. Below is an illustration of the housing structures in the province, as provided by the KZN Planning Commission.

**Table 2.2: Housing Structures in the KZN Province**

TYPE OF STRUCTURES	NUMBER OF UNITS 1995	NUMBER OF UNITS 2010
House or brick structure	624 437	1 183 381

Traditional dwelling	554 240	610 043
Informal dwelling in backyard	41 639	57 029
Informal dwelling not in backyard	147 182	167 671

**Source:** KZN Planning Commission (2011:54)

Despite the housing backlog, the province boasts an increasing number of formal housing units. This could be a result of the government's provision of the capital housing subsidy scheme, which has mainly been targeting the poor individuals and households. The informal dwellings have also increased in the province, which could also indicate the government's failure to provide adequate housing services. Another reason for this could be the rural-urban migration which has always been blamed for putting pressure on the urban resources, thereby increasing the already existing housing backlog. At this point, it is also essential to discuss the legislation surrounding housing service delivery in the country.

## **2.6. THE LEGISLATIVE FRAMEWORK FOR HOUSING IN SOUTH AFRICA**

The Freedom Charter of 1955 stipulates that "there shall be houses for all". In this view, various legislations have been put in place to ensure the adequate provision of housing to all South Africans. The legislations indicate that "access to housing and secure accommodation is an integral part of the government's commitment to reduce poverty and to improve the quality of peoples' lives". Some of these important legislations are discussed below.

### **2.6.1. The Constitution of South Africa, 1996**

The Constitution highlights the need to provide adequate shelter for every citizen. This implies that housing is a basic human right which also contributes to sustainable livelihoods, as highlighted below:

*Housing as adequate shelter fulfils a basic human need, is both a product and a process, is a product of human endeavour and enterprise, is a vital part of integrated development planning, is a key sector of the national economy and is vital to socio-economic well-being of the nation (Miraftab, 2003: 231).*

Unfortunately, in South Africa and many other African countries, some citizens seem to have been denied this basic human right, mostly evidenced by the unending protests by community members to the local government. In particular,

*Housing is a highly politicised and contentious issue, particularly in developing countries like South Africa, which experience rapid urbanisation and where, as a result, huge competition for housing exists: Although shelter is a basic human need, it is also more than that. Housing is about everything other than houses, it is about the availability of land, about access to credit, about affordability, about economic growth, about social development, about environment* (Khan, 2003: 43; cited by Luyenge, 2011).

In the Constitution of South Africa, 1996 section 26 (1) and section 28(1)(c) stipulates the role of intergovernmental relations in the provision of housing, highlighting the roles and responsibilities of the three “distinctive, interdependent and interrelated” spheres of government. These roles will be discussed in depth in the later sections of this chapter. The Constitution thus highlights the importance of the critical role of other stakeholders in the provision of housing.

#### **2.6.2. The White Paper on Housing (1994)**

The White Paper on Housing (1994) stipulates that insecure tenure is one of the characteristics causing the housing crisis situation in the country. The White Paper thus ushered in some significant changes in the housing sector in South Africa, with over 1, 7 million houses being provided to over seven million people in the period between 1994 and 2005. At the same time, about 2.4 million housing subsidies were approved. Despite these efforts, housing authorities seem to be struggling to meet the housing needs of the citizens of the country, as “According to the White Paper on Housing (1994), the challenge of extended households and circulatory migration further add to the difficulty of addressing the housing issue” (Burgoyne, 2008: 2).

#### **2.6.3. The Housing Act, 1995 (Act No. 88 of 1995)**

This Act sought to ensure that the rights of the beneficiaries of housing are protected. Along with this legislation is the Prevention of illegal eviction from and unlawful occupation of land



(95 of 1998) which highlights the procedures to be taken in the cases of eviction of those who unlawfully occupy land. The Act also provides for the establishment and promotion of a sustainable housing environment. The Act thus highlights the South African housing vision as follows:

*...the establishment and maintenance of habitable, stable and sustainable public and private residential environments to ensure viable households and communities in areas allowing convenient access to economic opportunities, and to health, educational and social amenities in which all citizens and permanent residents of the Republic, will on a progressive basis, have access to permanent residential structures with secure tenure, ensuring internal and external privacy and providing adequate protection against the elements, and potable water, adequate sanitary facilities and domestic energy supply...*

However, despite efforts to provide housing to the majority of the people, the government faces a number of challenges which include the housing backlog, skills shortage, corruption and nepotism. In this regard, it has been pointed that:

*The process of allocation and delivery itself is not transparent and irregularities have taken place in delivering adequate housing to South African citizens. The issues highlighted in the literature show that government housing processes have not been performing to a satisfactory level. Housing allocation processes needs to be reviewed to try and improve the current situation (Allan, Somerville & Kennedy, 2000).*

Despite the above legislations being in place, the National housing policy has not been without its own challenges. The main challenge facing the National Housing Policy is the fact the decrease in the provision of housing has caused an enormous backlog, resulting in the prospective beneficiaries becoming desperate and impatient. This is also evidenced by some citizens taking to the streets protesting about the lack of and shortage of housing and other essential basic services. The reasons for the backlogs have been linked to the insufficient resources, as well as the complicated nature of the administrative, institutional and bureaucratic processes of the government, especially considering that some of these have been inherited from the former apartheid government. These have been pointed for making it

difficult to effectively execute the important objectives of the Housing Act (Act 107 of 1997) which include: “to construct 1 million houses in 5 years; to establish and maintain habitable, stable and sustainable public and private residential; to create viable households and communities; to ensure that housing developments are both economically and socially sustainable and, to promote integrated development, prevent urban sprawl and redress the historically distorted racial and spatial patterns of towns, cities and rural areas” (The Housing Act, 107 of 1997). In addition to the inadequate resources and under-spending due to institutional capacity, the housing policy itself did not also provide various options to meet the housing demands. For instance, the policy did not suggest strategies which could be employed to improve or upgrade the informal settlements, or strategies to ensure affordable renting by those in need of housing (Department of Local Government and Housing, 2005:8).

However, despite the abovementioned challenges, the housing policy authorities have made considerable efforts to improve the housing situation in the country, since the policy is the main mechanism in addressing the challenges. In that view, the existing policies have suggested several housing strategies to ensure adequate housing for every citizen. The Human Settlement Department noted that “not only does housing policy fail because of these structural bureaucratic limitations in its ability to implement its vision, but it also fails to acknowledge the prior question of why there is a lack of housing in the first place”. In view of that, the following is a discussion of some of the strategies put in place in an effort to deal with the challenges facing the housing sector.

#### **2.6.4. The Deeds Registries Act (No 47 of 1937)**

The Deeds Act “empowers only conveyancers to prepare deeds of transfer and in doing so, assumes responsibility for certain facts set out in the deed and documents” (Urban Landmark, 2011). The Act also highlights the role of the Department of Human Settlement as that of appointing conveyancers to ensure the registration process.

### **2.7. BREAKING NEW GROUND: THE NEW PERSPECTIVE**

The “Breaking New Ground” (BNG) was introduced in order to guide and direct the housing development, while remedying the deficits and bridging the gaps from the previously existing strategies. The strategy’s main objective was to “redirect and enhance existing mechanisms to

move towards more responsive and effective delivery...to promote the achievement of a non-racial, integrated society through the development of sustainable housing settlements and quality housing” (Department of Local Government and Housing, 2005: 8). In other words, the BNG strategy was meant to accelerate housing service delivery as a mechanism for poverty alleviation and employment creation (Department of Local Government and Housing, 2005: 8). Moreover,

*...crime prevention strategies, promoting social cohesion and improving quality of life for the poor, are also listed as BNG's main objectives, by providing community supporting facilities through housing delivery. Additionally, it aims to make use of housing as a tool for development of sustainable human settlements in support of spatial restructuring, promoting and facilitating an affordable rental and social housing market and upgrading informal settlements (Department of Local Government and Housing, 2005).*

The above assertion indicates that in contrast to the previous housing policy which focused on providing proper and adequate housing, the BNG strategy was aimed at developing and creating sustainable human settlements. In this regard, the “sustainable” aspect implies that the strategy is aimed at ensuring that the current and prospective residents of the settlements dwell in secure and safe conditions with adequate access to basic services (Department of Local Government and Housing, 2005).

## **2.8. THE COMPREHENSIVE HOUSING PLAN**

The Comprehensive Housing Plan was designed as the new framework for the provision of housing. Its main features included:

*The development of low-cost housing, medium-density accommodation and rental housing; strengthening of public private partnerships; enhancing social infrastructure and amenities. The plan also aims to change spatial settlement patterns, which are informed by the need to build multicultural communities in a non-racial society. It is estimated that more than 108 000 additional households will benefit from this venture (Department of Housing, 2004).*

The effective implementation of this plan would result in the delivery of houses based on demand. The plan also highlighted the need to ensure that title deeds would be accessed and improved by implementing measures which would stimulate “a renewed uptake in the Discount Benefit Scheme and establishment of a high-priority focus on completing the registration of transfer in respect of houses constructed under the existing housing programme” (Department of Housing, 2004). The plan also indicated that all the housing programmes would focus on “ring-fencing informal settlements and replacing these with more adequate forms of housing” (Department of Housing, 2004). In order to help achieve this, the South African government allocated additional funds to promote the project and to ensure the upgrading of informal settlements by 2014. The Department of Housing records (2004) indicated that “during the 2006/07 budget allocation process, an additional R500m was given and R1, 5 billion provided in financial year 07/08. The process of upgrading the informal settlements will be carried out through a number of pilot projects in identified areas”. In addition, the various housing subsidies discussed earlier in this chapter were established to ensure that the housing needs of the different housing markets were met.

The discussion about housing so far has shown that the National Housing Policy is driven by the government. This therefore needs to be expanded, in order to understand the issues about which part of the government is responsible for which aspect of housing in the delivery process. On that note, the following is a discussion of the roles of the three spheres of government in the housing services delivery.

## **2.9. STAKEHOLDER INVOLVEMENT IN THE LOW-COST HOUSING PROVISION**

Each of the spheres of the government has its specific responsibilities in the development of the housing process. Therefore, it is important to discuss the different functions and responsibilities of the three spheres of government.

### **2.9.1. The National Government**

The National government is mandated to ensure a sustainable and effective housing development processes. In that view, the role of the National government entails launching and facilitating processes and plan, while at the same time consulting with the other spheres

of the government. The National Housing Code (2001) highlights the functions and roles of the National government as to:

- Support local government and empower them with skills and knowledge to implement the housing development processes
- To enhance consultation and ensure effective communication with other government spheres and other relevant stakeholders, with regards to housing development processes
- Facilitate the housing delivery services in order to ensure the objectives and goals are in line with the communities' needs

In other words, the role of the National government in the provision of housing is to determine the national housing policy, to monitor the performance of both the provincial and local government in terms of meeting their housing delivery targets, while at the same time strengthening their capacity in terms of housing development.

### **2.9.2. The Provincial Government**

The Provincial Government is obliged to ensure the provision of adequate housing to the communities. Being accountable to the national government, the provincial government is mandated to ensure that the homeless are afforded the privilege to affordable, clean and safe housing (Campbell, 2007). The specific roles and functions of the provincial government include the following:

- Determining provincial policy with regards to housing processes
- Co-ordinating and supporting local government to exercise its powers and functions regarding housing processes
- Intervening on the functions of local government when they cannot perform the functions properly

(National Housing Code, 2001).

From the above, it is shown that the provincial government has the powers to delegate some housing services function to the local government and intervene when the local government does not have the capacity to do so. Essentially, it has been shown that the provincial government functions according to the national housing policy framework in association with the national government.

### **2.9.3. The Local Government**

As the sphere closes to the community members, the local government is tasked with the provision of direct services to the communities, through the various municipal authorities who facilitate service delivery. The National Housing Code (2001) stipulates the roles and functions of the local government as follows:

- Ensuring healthy and safe living conditions for the community members
- The efficient provision of all the basic services like water and sanitation, electricity and infrastructure
- Setting housing service delivery goals and identifying and designating land for the housing projects

For the effective implementation of these roles and functions, local government needs the support of other relevant stakeholders, including the national and the provincial governments, which the local government should co-operate with. Essentially, local government is expected to have developed an IDP together with the community members that they serve, in order to ensure that the local government is responding to the needs of the communities. In that way, local government is mandated to “take all reasonable and necessary steps within the framework of national and provincial housing legislation and policy to ensure that the right to have access to adequate housing is realised on a progressive basis” (National Housing Code, 2001).

## **2.10. CHALLENGES FACED BY THE GOVERNMENT IN RELATION TO HOUSING SERVICE DELIVERY**

Despite the government efforts to provide housing to the needy society, there still remain some challenges which vary from political to social. The reality is that housing is a highly political issue which weakens the government's efforts towards providing the service. A major challenge that relates to this study is the issuing of title deeds. This is therefore described in detail in the following sections.

### **2.10.1. Defining a title deed**

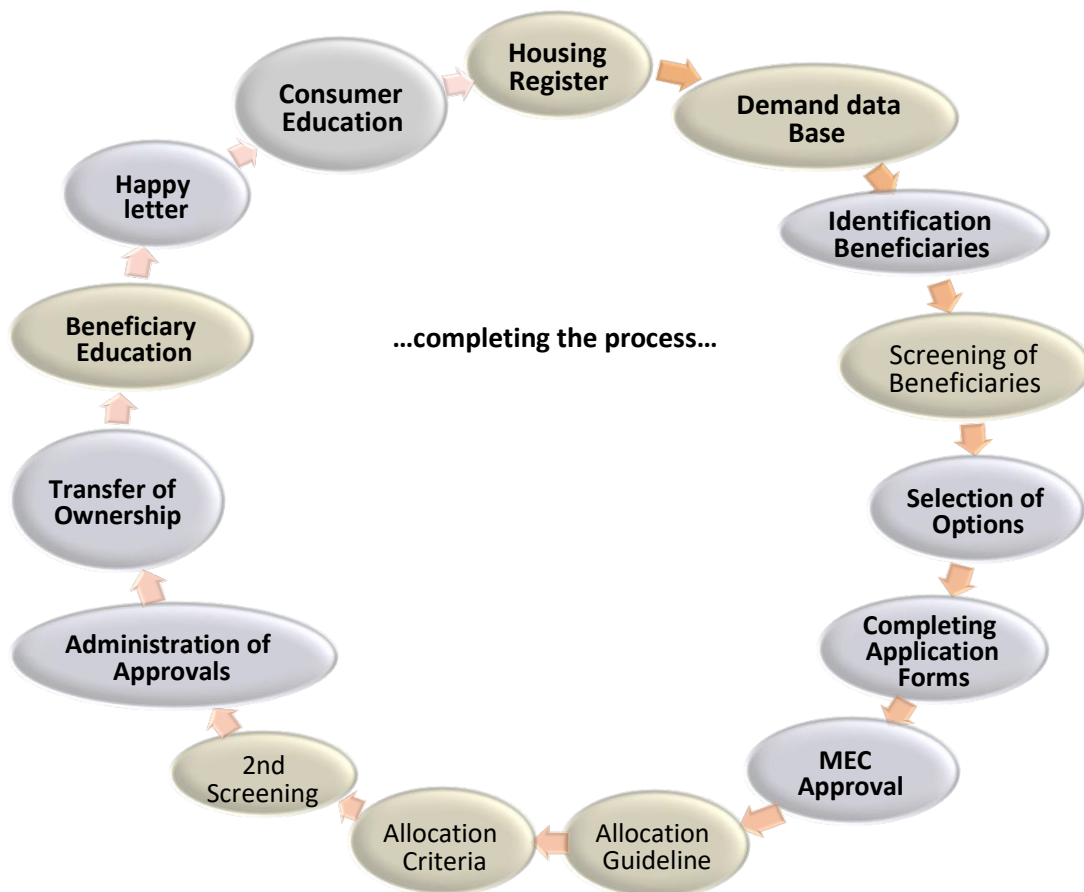
A title deed is a legal document given to a housing or land beneficiary as a proof of ownership. Those who own property are required to have the title deeds, except in cases where a mortgage over the property is held by a financial institution, and then the title deed is kept by the institution. The essence of a title deed is to protect title and ownership to a property, as well as to facilitate financial transactions and market. The main functions of title deeds thus include the protection of rights, recording changes, facilitating property transactions, as well as facilitating financial transactions (The Deeds Registrar Act, 47 of 1937). Besides securing tenure, title deeds pave the way for housing beneficiaries to turn their property into assets for the accumulation of wealth, as homeowners could use their houses as collateral. This means that the provision of title deeds could help reduce poverty as it has the potential to contribute to the socio-economic betterment of the low-income homeowners. However, research has revealed that most banks are reluctant to provide housing loans to the owners of these so called social houses, since banks often consider providing loans for houses which are valued at a minimum of R600 000, yet these social houses can be sold at an average of half that amount (Steyn, 2016).

Besides the economic benefit of having a title deed, it is easier to transfer the property to family members in the event of death, the owners have the freedom to extend the properties and can sell it at any time, even though they are restricted by government laws not to sell the properties for a certain period from the time of being allocated the houses. Many of the beneficiaries also tend to sell the houses informally due to the high transfer duty and other legal costs.

From a municipal point of view, property ownership means that the owner is obliged to pay municipal rates and other service charges for the sustainability of the property. When a

municipality identifies an area for development, the area has to be approved for construction. At the same time, beneficiaries to the development project are identified by the municipality (a special allocation committee is selected) and in most cases the prospective beneficiaries are usually those who would be living within the immediate informal settlements. In order to be selected as beneficiaries, the people have to apply and meet the requirements which include the fact that the applicant is a South African citizen and has never benefited from a government-subsidized house. Upon meeting the requirements, the beneficiaries are put on the housing waiting list database. The housing allocation system is kept in a database, known as the National Housing Needs Register, which is a web-based application that contains all the relevant details of the people on the waiting list. When the housing development project is completed, the relevant officials assist the beneficiaries with signing forms with regards to the allocated property, the transfer of ownership and finally, the signing of the happy letter. After being allocated a house, the beneficiaries receive some kind of education in terms of how to maintain the property, the legislative requirements and the registration of title deeds, of which the transfer occurs after subsidy application has been approved. In the end, the beneficiaries should receive subsidy valuation certificates. Figure 2.2, is a diagrammatic representation of the beneficiary identification process.





**Figure 2.2: Beneficiary Identification Process**

*Source:* Department of Human Settlements, 2013

The above process seems to have its own challenges. The way the information is processed creates some difficulties. First of all, municipalities are not fully capacitated and resourced in order to effectively implement the process, which results in the National Housing Needs Register being considered more reliable. This is because municipalities collect the information manually then sends the information to the central database in Pretoria where it gets captured. Again, tracking the information on the system seems to be difficult, especially for municipalities as they cannot make changes on the data they send to the system, despite having access to the information.

The reason for describing the housing allocation process was to provide insights as to what happens and who is responsible for doing what in the allocation of housing and the processing of title deeds. However, despite the clear process described above, it is a fact that the Department of Human Settlement is faced with massive backlogs in terms of the delivery of title deeds to the housing beneficiaries. The ANC promised in its 2014 election manifesto that “We will eliminate the backlog of title deeds. New home owners in the subsidy market will be issued with a title deed upon occupation”. In the same way, the responsible Department of Human settlement committed itself to clear the backlogs in the delivery of title deeds by 2020 (Steyn, 2016). In its 2015 - 2016 Annual Performance Plan, the Department launched the title deeds restoration project, whereby it commits itself to work in collaboration with the Estate Agency Affairs Board to provide the necessary support to municipalities to enable them to rightfully transfer housing to the beneficiaries. However, in the 2016-2017 Annual Performance Plan, the department has not highlighted the logistical processes; neither has it reported on the progress of the project.

**Table 2.3: Title deeds delivery to date**

PROVINCE	BACKLOG	2014/15	2015/16		2016/17 (Qtr 1)		TOTAL TO DATE
			Target	Output	Target	Output	
E/Cape	110,317	7,931	7,92	7,666	5,043	7,835	23,432
F/State	78,598	738	7,506	7,199	2,45	3,037	10,974

G'teng				18,03			
	165,711	7,808	13,9	2	8,616	2,216	28,056
KZN	158,905	4,471	7,54	3,904	2,445	236	8,611
Limpopo							
	42,391	309	4,562	2,373	4,25	306	2,988
M'langa							
	81,702	8,169	11	5,123	2,25	1,281	14,573
N/Cape							
	31,893	648	3,5	2,336	900	944	3,928
N/West	69,874	0	7,655	586	4,225	3,528	3,528
W/Cape		26,98		12,83			
	78,871	6	5	7	2,818	730	40,553
<b>TOTAL</b>							
	818,262	57,06	68,08	60,05	32,99	20,11	137,229
			3	6	7	3	

Source: Department of Human Settlements restoration project, 2016

From the researcher's personal analysis of the above figures, emphasis has been placed on the delivery of the houses, while little attention has been paid to the transferring of title deeds. Despite delivering over three million houses within the 22-year democratic period, research has shown that most of the beneficiaries of these subsidised houses do not have title deeds (ECPHS Annual Performance Plan, 2016-2017). Urban Landmark (2011) revealed that about 1,4 million housing beneficiaries do not own title deeds to the houses that they have been allocated. A major blow for this kind of a situation is that the beneficiaries cannot enter the formal property market. Described below are some of the identified reasons for the delays in the processing of title deeds for the subsidised houses.

### **2.10.2. Delays in township establishment and proclamation**

Urban landmark (2011) reported that the government has been under pressure to build houses at a large scale, which led to the short-circuiting the process of establishing and proclaiming townships. The reason for doing so would be to do the paperwork afterwards, thereby viewing the registration of deeds as "secondary in operational terms" (Steyn, 2013).

### **2.10.3. Failure to hand over or collect title deeds**

It has been revealed that some title deeds have been processed, but have are still in the hands of the municipalities or the conveyancers. The major challenge in this regard has been that after the transfers have been done, some of the beneficiaries fail to pay for, or collect the title deeds even after processing the payment. In this view, it is important to educate the homeowners on the essence of title deeds.

### **2.10.4. Incompetent conveyancers**

Some of the conveyancers tasked to deliver deeds are not competent enough (Steyn, 2013). This delays the whole process. In some cases, the appointment of the conveyancers is also delayed. Given this scenario, it is essential to ensure that quality control measures are put in place to ensure that well-resourced conveyancers are appointed to provide timeous bulk registration of deeds.

### **2.10.5. Lack of a clear hand-over programme**

The absence of a well-coordinated policy for ensuring timeous delivery and transfer of title deeds to beneficiaries has been a cause for concern. It is thus essential for the Department to draft clearly defined policies aimed at ensuring better services in terms of transfer and delivery of deeds. The absence of clear policies could be a major contributor to most of the delays in the delivery of title deeds by municipalities.

Given the problems associated with the provision of title deeds as described above, one can conclude that it still remains a distant dream for housing beneficiaries to realise security of tenure for these subsidy houses. In terms of the Housing Act, the Department of Human Settlements ought to implement solid monitoring and evaluation of the accredited municipalities, assessing their administration of the housing programmes. Considering that it is only metropolitan municipalities that have been accredited to do this, the Department should perhaps consider accrediting local municipalities as well, so as to reduce the burden on the metropolitan municipalities and also ensure the eradication of backlogs in title deeds delivery. With the title deed restoration project in the pipeline, this could go a long way in helping eradicate the backlogs.

### **2.10.6. Housing Backlog**

The earlier sections of this chapter have indicated the statistics in terms of backlog challenges facing the country. It is a fact that the backlog challenge will always remain difficult to solve, considering the number of new entrance entering the housing market. Another hindrance to the effective delivery of housing by the government pertains to the inadequate allocation of resources. In some cases, it has been reported that under-spending on budget meant for the low-income housing also contributes to the backlogs, caused by the incapacity of the relevant authorities (Department of Housing, 2004). It is therefore clear that administrative processes are also amongst the causes of the housing backlogs in the country. In addition, the demand for housing is exacerbating to the high levels of poverty and unemployment hence, the government is failing to meet the housing demands. As a result, the majority of South Africans “still live under very precarious conditions, either in informal settlements or backyards of formal dwelling units”, and worse still, without access to basic services and other amenities (Ziblim, 2014:15). However, these problems cannot be solved by the provision of housing alone.

The housing issue cannot be separated from the issue of land, which plays a major role on the debates about housing, especially when discussing housing for the poor and the low-income households. In this regard, Napier (2013:2) noted that it is very difficult to access land for the low-income majority in the urban areas. This is mainly because the listed and well -located land is under regulation by the markets, which makes it difficult for the poor to afford it. Lallet al (2007: 5) argued that “...it is very difficult for the poor people to legally gain access to land... there is resistance in many municipalities to set aside well-located land for low-income households”. Thus, lack of financing is a hindrance to housing development. This often results in the poor to illegally occupy land, either owned by the government or by private owners. This is highly condemned as it signposts the expansion of informal settlements, which in turn increases housing demand. From this discussion, it is clear that the poor majority cannot positively contribute to housing provision because of lack of ownership of the land, thereby creating challenges for the government in its endeavours towards providing housing.

### **2.10.7. Political interference**

The low-cost housing scheme is marred by lots of controversies as to who is qualified to benefit and who is actually benefiting from the programme. To be specific, the housing authorities have allegedly been blamed for being corrupt in terms of registering beneficiaries on the housing waiting list (Jai, 2010). This is a major challenge in the provision of housing, especially in the local government. What happens is that most of the beneficiaries on the waiting list tend to wait for many years before they are provided with the RDP house (Karamoko, 2011). This has become one of the reasons for service delivery protests, especially considering that other services like water, sanitation and electricity are all linked to housing. These services cannot be legally provided where there is no formal housing, which in most cases are the informal settlements. Regarding the provision and allocation of RDP houses, it has been noted that “there is very little monitoring and oversight of the process, and corruption around allocation is often reported” (Chetty, 2012). The main challenge in this regard is therefore the fact that the housing delivery process is not properly monitored and managed hence, the rise in the alleged corruption amongst the housing authorities.

The problem seems to be that the system of having the housing waiting list is often the root of maladministration and corruption, because, instead of providing houses to people on a first come first serve basis, the system is not as clear as it is supposed to be hence, it is just but a myth (Tissington, Munshi, Mirugi-Mukundi & Durojay, 2013) since there is so much confusion as to how the system is portrayed and how it actually works. With regards to this matter, Tissington, et al (2013: 56) noted that “In Gauteng and the Western Cape (and, presumably, across the country), it is clear that there is no all-encompassing housing ‘waiting list’ that operates in a fair and rational manner to allocate houses on a ‘first come first served’ basis”. This assertion clearly highlights the disparities existing in the whole waiting list system. Now, the effect is double sided: on the one hand, the many lists that sometimes exist become difficult to manage and usually results in the whole process of housing delivery becoming stagnant. On the other hand, the prospective beneficiaries of the housing system would be waiting and hoping to receive their RDP house from the government and when this does not happen, the result is tension between government officials and community members. In other words, the waiting list system is somehow dysfunctional as it is mostly affected by issues of fraud and corruption. Rubin (2011: 481) thus concludes that “...accusations of

corruption in the housing process, from putting friends into positions of power and manipulating the allocation procedure, to illegally selling title deeds and controlling the deeds register” are common scenarios in the housing delivery process. This has given the public a negative perception on government officials mandated with the responsibility of housing provision. Again, these “perceptions of corruption are fed by the fact that waiting lists have not been ‘made public’, that allocation processes are not transparent, and that many people have been on ‘the list’ for years (and in some cases, decades)” (Tissington *et al*, 2013:67). The lack of transparency on the housing issue indicates poor public involvement in service delivery issues. In this regard, Rubin (2011) highlights lack of awareness on the part of the public, as to why the housing delivery process is so slow and awkward. This information gap often results in the public making its own conclusions regarding the whole housing process. It is clear from this discussion that the housing process is highly political and hence, a source of tension between government officials and community members. The result is often direct conflict between these different stakeholders. The confrontation manifests in forms of petitions and protests, which also often put some government officials’ jobs at stake.

The foregoing discussion suggests a range of challenges most of which relate to administration processes which are prone to political interference, a lack of a coherent handover programme, coordination between home owners, conveyancers and the municipality – to mention but a few. It is these administrative challenges that provide a foundation for the conceptual basis of this study i.e. smooth administrative processes are more likely to provide smooth transfer of ownership and securing of title deeds.

## **2.11. CONCLUSION**

This chapter has provided an overview of the housing service delivery in the country. The definition of title deeds was highlighted. The housing situation in South Africa was discussed alongside the roles of the three spheres of government in the delivery of houses. It was also important to discuss a few of the legislations underpinning housing service delivery in the country. Essentially, the hindrances to the effective housing service delivery were also highlighted. Having deliberated on all these important aspects, it was suggested that more attention should be paid to the implementation of housing service delivery since the majority of the South African are living in informal settlements. The discussion in this chapter provided statistics showing that many millions of South Africans are living in informal

dwelling. It has also been indicated that despite making efforts towards providing housing, the government is faced with a big challenge to deal with the housing backlogs and in a way, is failing to meet the increasing housing demand. It has emerged that the housing service delivery function requires a lot of capital resources, which is one of the major challenges towards the provision of housing. Financial constraints on the part of the government entails that the housing processes become stagnant, while the prospective beneficiaries would be on the waiting list and at the same time the number of those qualifying for the low-cost housing would be increasing. In the end, it is true that dealing with the housing backlog would never be realised because despite providing houses to large numbers of people, the number of those on the waiting list keeps increasing. In that view, the chapter that follows discusses the methodology applied in order to get some perceptions as to the administrative causes of delays in the processing of title deeds, which is an important element in housing delivery.



## **CHAPTER 3**

### **RESEARCH METHODOLOGY**

#### **3.1. INTRODUCTION**

In the previous chapter, the literature relevant to the study was discussed. The purpose of the literature review was to provide a conceptual framework underpinning the study. This chapter is thus a discussion of the methodology applied in order to answer the research questions. Research methodology refers to “the collection, processing and analysis of data to necessitate a reflection on the planning, structuring and execution of the research in order to comply with the demands of truth, objectivity and validity” (Brynard & Hanekom, 1997: 29). It entails the research approaches, as well as the decisions taken to execute the research project. The methodology used in this study is described and justified as to why it was chosen. In that view, this chapter discusses the following: the qualitative method, target population and sampling, the data collection tool, as well as the data analysis method. In addition, aspects of the ethical considerations are discussed alongside the limitations of the study. A personal reflection is also provided prior to summarizing the chapter. Before doing that, it is important to provide background information on the study area. This is described below.

#### **3.2. THE CASE STUDY: SIYANDA INFORMAL SETTLEMENT IN KWA-MASHU**

Situated approximately 20 km north of the Central Business District (CBD) of Durban, KwaMashu is an originally Black community which was established in 1957, in terms of the Black Authority Act 68 of 1951 (INK Joint Government Annual Business Plan, 2004-5). Before that, the area was a sugarcane plantation. The population that got accommodated in the area were those who had been displaced Umkhumbane (now Cato Manor) starting from the late 1950s to 1970s (Injobo Nebandla, 2005). The Siyanda informal settlement area is located near KwaMashu Township within EThekweni Municipality. It is mainly an African township “with 25% of its residents having below subsistence level and an unemployment rate of 30% (eThekweni Municipality, 2009). In 2002, the EThekweni Municipality initiated the housing subsidy project to develop the Siyanda informal settlement area for its residents.

About 15 000 households are accommodated in this area and these are the beneficiaries of the low-income housing project. It is important to reiterate at this point that since the initiation of the project, up to now, from the researcher's knowledge and as one of the residents of the area, none of the beneficiaries has a title deed which serves as a proof of ownership. The living conditions in these informal residences are unfavorable and at the same time affected by issues like poverty, high crime rates, unemployment and high population density. The social services delivery in the area are very poor, as the larger part of the area lacks the basic services like electricity, sanitation and running water. These problems have resulted in many of the residents engaging in illegal connections to these basic services (eThekweni Municipality, 2011).

In 2009, some of the residents of Siyanda were evicted from their informal residence by the Department of Transport and were relocated in transit camps to pave way for the construction of a road, the Dumisani Makhaye Drive (Mail & Guardian, 2012). One of the conditions for the eviction was that the residents were supposed to be moved to formal houses by the municipality within twelve months, which did not happen. By September 2012, the evicted residents took the eThekweni Municipality to court for failing to provide homes for these residents as ordered by the court. This and the title deeds cases, have serious implications for the local government which is supposed to be accountable in its administration. The two related cases are indicative of how the responsible authorities often neglect to comply with their constitutional obligations of service delivery. Given this background information, it is therefore essential to discuss the methodology undertaken to address the subject of this study.

### **3.3. QUALITATIVE METHODOLOGY**

This study is qualitative in nature and therefore situated in the interpretive paradigm, whereby the researcher seeks to understand how people make meaning out of their actions. Biber-Hesse and Leavy (2011) argued that the interpretive paradigm's main focuses are the subjective experiences, the interactions and understanding (meaning seeking). In this particular study, the researcher sought to understand the reasons for the delays in the processing of title deeds for the low-cost housing beneficiaries in the Siyanda informal settlement. The suitability of the qualitative method is based on the fact that the study sought

to get people's sentiments regarding the issue of title deeds in the study area. Thus, qualitative methodology provides information from the actor's perspective, the actors in this instance being the participants who were chosen to provide the relevant information needed to answer the research questions.

### **3.4. TARGET POPULATION AND SAMPLING**

Sampling entails "any procedure that scientifically selects a smaller number to work with from the larger population" (Cooper & Schindler, 2011: 364). It can therefore be random (probability) or purposive (non-probability sampling) (Durrheim & Wassenaar, 2002). The reason for sampling is to ensure that the right participants are selected for the particular study. For this particular study, purposive sampling was done. "Purposive sampling is a non-parametric sampling technique in which the researcher purposively identifies respondents as source of data" (Wamundila, 2008: 25). Dane (2011) noted that purposive sampling ensures that participants are chosen based on certain characteristics as determined by the study's aims and objectives. The researcher thus selected participants based on their ability to contribute in shedding more light as regards the processing of title deeds by local government. The researcher had to ensure that the chosen participants are knowledgeable about the housing issue in the study area, as well as the problems concerning title deeds in this regard.

Therefore, the target population for the study were the community members who were staying in the informal settlements and waiting to be given title deeds to the houses. The other group of participants included municipal personnel who worked on the project, officials from deed office, and legal firms, as well as the officials responsible for the housing and the processing of title deeds. It is important to mention that random sampling was done amongst the beneficiaries of the housing project. To that end, only selected strata of beneficiaries were randomly chosen, in order to ensure that all the project beneficiaries received an equal opportunity of being selected. The random sample was stratified to ensure the inclusion of beneficiaries from all age groups, simultaneously considering gender equity. Table 3.1 indicates the participants for the study.

**Table 3.1: Study participants**

<b>Category</b>	<b>Number</b>
Project beneficiaries	8
Officials from the eThekweni Municipality Human Settlement Component	3
Officials from the Deed Office	3
Legal representatives	3
<b>Total</b>	<b>17</b>

Source: Researcher's own

### **3.5. DATA COLLECTION TOOLS**

Both primary and secondary data were collected for this study. These are described below.

#### **3.5.1. The Questionnaire**

A questionnaire is a form of interviewing. However, what distinguishes it from other forms of interviews is that with the questionnaire, the respondent is not directly spoken to but is given a set of questions for him or her to answer. In most cases the researcher gives the respondent more time to respond to the questions and return the questionnaire upon finishing. The questionnaire can be structure or unstructured. It can be qualitative or quantitative. In the former, the questionnaire would be seeking participants' views, opinions and provides them with the platform to express themselves. With the quantitative questionnaire, a set of questions is given and the answers provided from which the respondents choose. The qualitative questionnaire was used in this particular study. Two different set of questionnaires (See appendices 2-3) were compiled, one for the project beneficiaries and the other for the officials selected to participate. The reason for designing two different questionnaires was because, there were questions that the beneficiaries could not answer as they were not the right people to respond to those questions, for example, questions to do with how the title deeds are processed and what could be causing the delays in the processing. At the same time, there were specific questions intended for the beneficiaries and not for the officials involved in the project. The reason for doing so was to get a sense of sentiments from the beneficiaries' point of view as to what they think could be the reasons why they have not had title deeds processed for them. It was very important to hear what the community members think about housing service delivery hence, the reason for designing questions specifically

meant for them. For both groups of participants, open-ended questions were provided. The questionnaire was therefore personally distributed to the participants who returned the completed questionnaire at their own convenient time. All the questionnaires were fully completed and returned.

### **3.5.2. Secondary data**

To supplement the primary data collected, the researcher spent several hours consulting secondary sources in form of journals, policy document and anything relevant to the housing situation in South Africa. Legislative documents were consulted frequently so as to familiarise with what the law says about housing in general. Government reports and documents provided insights as to how different housing projects were taking place in other municipal areas.

## **3.6. DATA ANALYSIS**

The purpose of data analysis is “to transform information or data into an answer to the original research question” (Terre Blanche, Durrheim & Painter, 2006: 52). Data were analysed through thematic analysis, which entails identifying, analysing and reporting patterns (themes) within data. Since this study has to do with administration, the POSDCORB<sup>1</sup> approach was adopted, meaning that themes were analysed in terms of the administrative processes involved in the processing of title deeds. The reason why thematic analysis was done is because it emphasises pinpointing, examining and recording patterns within data.

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<sup>1</sup>POSDCORB stands for Planning, Organizing, Staffing, Directing, Coordinating, Reporting and Budgeting. The process can be used as a systematic framework for efficiently executing business processes by individuals and or organisations.

### **3.7. ETHICAL CONSIDERATIONS**

Ethical considerations are supposed to be observed when doing any form of research, whether the researcher is dealing with animals or with human beings. This is important to provide a sense of integrity and morality to research, while at the same time ensuring that participants' rights are protected. In that view, the researcher also observed ethical issues. Prior to conducting research, ethical clearance certificate was issued by the University of KwaZulu-Natal's office responsible for this (see Appendix 1). A gatekeeper's letter was also issued by the relevant officials in the Department of Human Settlement at eThekweni Municipality. Participants were also brief of the purpose of the study before they agreed to sign informed consent forms. In the same way, they were informed of their rights to withdraw from the study at any given point without any negative consequences (see Appendix 4). Confidentiality and anonymity were maintained throughout the study; while the participants were assured that the results of the study were solely for academic purposes.

### **3.8. LIMITATIONS OF THE STUDY**

This study focused on the title deeds issue at an informal settlement in the KwaMashu area in KwaZulu-Natal. In that regard, the results of the study may not be generalised or might not be applicable in any similar situations.

### **3.9. PERSONAL REFLECTION**

The researcher has to acknowledge his familiarity with the study area, being one of the residents in the township for the most part of his life. Thus, the researcher is part of the community members who have in several occasions expressed dissatisfaction and frustration towards the local government for the poor housing service delivery in the area under study. This obviously implies that the researcher had an idea of what to expect from the community members, but of cause being careful of being biased. Despite some assumptions confirmed, in some cases the researcher's assumptions were disapproved. It also means that the project beneficiaries were comfortable providing information to the researcher, due to them knowing that the researcher is "one of their own". In the same manner, some of the questions formulated for the officials were more like from a resident's point of view, being a resident who is concerned about knowing and understanding the processes involved in the provision of title deeds to community members.

The researcher has to admit that finding the officials involved in the housing project in question was quite a bit of a challenge, given their hectic schedules and the fact that people often change jobs. So, sometimes it was a case of approaching the wrong person who would not be willing to provide the sought information. However, the available officials were helpful enough in identifying the right officials to get the desired information from. The researcher made sure that he got the desired information from officials who had first-hand information and not third parties hence; it was a bit of a challenge identifying the right officials. In the same way, it was a bit challenging to convince some of the officials to participate in the study, considering the controversies and politics surrounding the housing issue, so initially some officials were reluctant to participate, in the fear of losing their jobs. It was after the researcher clearly explained to them the purpose of the study that they agreed to participate. Another limitation was that the study depended on the information provided by the respondents. Some of which the claims could not be validated, despite the researcher's efforts to collaborate the information provided by the respondents with that from various reports and documents.

### **3. 10. CONCLUSION**

This chapter provided the background information of the study area. This was important to get a sense the state of the housing situation in the area. The methodology underpinning the study followed this discussion. In particular, the qualitative methodology was described, followed by a description of the sampling and target population. The data collection tool was discussed alongside the data analysis. Aspects of the ethical issues were also discussed. Lastly, the limitations and a personal reflection on the whole process of data collection were also described. Having done so, the next chapter is a presentation and analysis of the research findings.

## **CHAPTER 4**

### **DATA PRESENTATION AND ANALYSIS**

#### **4.1. INTRODUCTION**

The purpose of this chapter is to present and analyse the data that were collected from the participants of the study. It is important to reiterate that data for this study were collected from three different categories of people: the community members, the municipal officials, the attorneys and conveyancers, as well as representatives from the deeds office. The purpose of doing this was to get a sense of sentiments from these different stakeholders, regarding their perceptions about the delays in the issuing of title deeds. On that note, it is also important to indicate that the data collected will be presented and discussed simultaneously, since it was coded based on the themes that emerged. Because of the overlapping nature of the data collected and the themes that emerged, it would be repetitive to discuss the findings separately.

#### **4.2. HOUSING BENEFICIARIES**

The participants who represented the community members in this study were eight. Out of those, four of them indicated that they were the owners of the houses, one was renting, while three indicated that the houses belonged to their parents. The one who was renting indicated that she has been staying in the same house for more than ten years, while the remaining seven people said that they have been staying in those houses for fourteen and sixteen years. The participant who indicated to be a tenant and those who were staying in their parents' houses said that they did not have their own houses because they did not have the means to purchase due to unemployment, even though the tenant indicated that she applied for one more than four years ago. The other participants pointed that they received those houses after a long period of time, ranging between five and eight years. Coming to the most important issue in this study, all the participants indicated that they did not have the title deeds for the houses which they claim to be theirs. One participant said, "*inkinga enkulu itayitela lona alikho*", (the biggest problem is that the title deed is not there). The next question further prompted them why they did not have the title deeds; their responses were that the municipal officials never gave them the title deeds after they were allocated the houses.



From the above presentation, it is clear that the issue of title deeds is a matter of concern in the provision of the low-income housing. It sounds very strange for someone to stay in a house for sixteen years without a title deed. It actually raises questions if those people will ever get to receive the title deeds. Alongside the 2.3 million housing backlog is the issuing of title deeds, which has also resulted in a backlog. The Minister of Human Settlements, Lindiwe Sisulu said they are “the dead assets” in people’s hands, when referring to those houses which the owners had not been given title deeds. A study by the FinMark Trust and Urban Landmark (2011) indicated that more than one million owners of the RDP did not have title deeds to these properties.

From the literature review in Chapter 2, it has been indicated that the need and essence of a title cannot be underestimated, as the challenges associated with not having one are unbearable. The challenges will be discussed later as this chapter progresses. However, the fact is that beneficiaries of the low-cost housing are supposed to be issued with title deeds as evidence of ownership. On that note, the researcher also enquired from the officials involved in the processing of title deeds, with the aim of establishing what exactly their roles are in the process and why there is so much delays in the processing of title deeds. The researcher sought to understand some of the challenges associated with the processing of title deeds, as well as the challenges faced by those beneficiaries without title deeds. The next section discusses some of the issues that came up from the relevant officials.

#### **4.3. HOUSING ALLOCATION AND THE PROCESSING OF TITLE DEEDS**

In order to get more information concerning the processing of title deeds, the researcher distributed the questionnaire to key people in this regard. From the eThekweni Municipality human settlements section, the conveyancers’ section, as well as the deeds office, the following people indicated their roles:

*Principal clerk, eThekweni Municipality human settlements. I ensure sale agreements are signed as well as relevant documents that are required for transfer. Ensure identity documents, merit certificates and proof of income, submit to lawyers for process.*

*eThekweni municipality human settlements. I am a clerk; I work in admin with title deeds. Checking correctness of documents handed to our conveyancers for registration. To ensure sale agreements is signed by both parties, to screen all received documents such as identity documents, merit certificate and proof of income.*

*Conveyancing paralegal: taking instructions to transfer, drafting transfer documents, Attending to lodgments at the deeds office.*

*Attorneys and conveyancers: Drafting of transfer documents, obtaining rates clearance certificate, obtaining transfer duty exemption receipts where applicable, lodging documents at deeds.*

*Thembeke Mdunge and Associates conveyancer... director. I prepare title deeds, transfer duty, rates, prepare all documents, attend to lodgments, prepare and execution.*

*Assistant Registrar of deeds. I do monitoring examination standards.*

*I am the Registration clerk; my job entails lodgement, numbering and date stamping.*

*Senior (second level) examination officer...Second level examination, passing and /rejecting deeds and supervising of subordinates.*

*Junior (first level) examination officer. Job involves endorsing, calculating fees and first level examination.*

From the above findings, one can conclude that one of the important roles of officials in the processing of title deeds is to verify applicants' details to ensure that they qualify for housing allocation. The process is very crucial as it helps the subsidy administrators in decision making on whether to grant the applicants the houses or not, to check if the applicants have not previously benefited from the scheme (Auditor-General, 2006: 7).

As indicated earlier in this chapter, the eight community participants pointed out that they did not have title deeds, even though they were allocated those houses and have been staying in them for fourteen to sixteen years. This indicates that something is missing, with regards to the processing of title deeds. As a result, people living in their houses have the fear that maybe one day someone can come and claim those houses to be theirs and there is no evidence as to the owner of the houses. Literature indicates that since 1994, more than 2,8

million houses have been provided to the low-income earners, yet up to 2011, most of those houses had not been properly registered, meaning that the owners had not received title deeds (Urban LandMark, 2011). It is the role of municipalities to issue title deeds to new home owners, but given the statistics above, it is possible to say that municipalities are failing to fulfil this important mandate of issuing title deeds. Reasons that have been put forward in this regard include the fact that the municipalities are not capacitated to do this, they lack the staff and or the knowledge about the registration of title deeds. Upon enquiring from the officials who participated in this study, on how long it takes to process title deeds, their responses were shocking, given the fact that some people have been allocated houses sixteen years ago but have not received title deeds. The following were the responses from the officials:

*Six to eight weeks under normal circumstances*

*Three months*

*It should take at least ten days if all is in order once all the necessary requirements from the municipality have been secured e.g. rate figures and rate certificates thirty days is the maximum*

*According to the manual (deeds office manual) fifteen days.*

The responses from the officials, as well as what is happening in reality, does not add up. If it really takes up to three months to issue a title deed, then that implies that there is a huge backlog in terms of the processing of title deeds. When the researcher asked the officials about what could be the causes of the delays in the processing of title deeds, the following responses emerged:

*Certificate of Registered Titles get lost, delay in opening of township registers.*

*Township establishment delays. Properties are allocated, but the township is not established –ie. No section 28(1) certificates*

*Printing of rates certificate, delay in opening township registers and conveyancing processes.*

*Delay by the municipality in processing of the application for rate clearance figures.*

*Municipalities take time to release figures required for obtaining rates clearance certificates.*

*Clients always dispute the figures raised.*

*Most general plans have not been approved, or approval of general plans and subdivisional diagrams have lapsed and they need extension to relative surveyor - General, which delays the same process.*

*The issuing of rate figures and rate clearance certificate by the municipality concerned.*

*Incorrect drawing up of deeds, wrong / incomplete documents lodged*

From the community members' perspectives, the following were given as the reasons for the delays:

*I think there are some authorities who are not doing their job very well*

*Incorrect documents plus authorities not doing their jobs*

*They just don't care about our needs*

*The authorities should push the municipality to do its job*

*I might be lying but the truth is they want to sell our houses, that's why they don't give us the title deeds*

In its annual performance plan for 2016, the department of human settlements indicated to commit itself in clearing this backlog by 2020 (Mail & Guardian, 2016). The responses presented above clearly highlight the factor which has been indicated earlier, that of municipal officials being incapacitated enough to deal with the issue of title deeds. Indeed, municipalities have a large influence in the processing of title deeds. Other reasons for the backlogs, as indicated in the officials' responses include the fact that the developers of the houses are failing to completely establish the townships, which causes delays in the creation of the registers needed for the new housing areas.

The delay in the processing of title deeds has several implications. Title deeds are the only evidence of ownership of property. They protect the right of the owners and provide them with addresses. Importantly, title deeds allow the owners of the houses to secure financing from financial institutions, as banks become reluctant to provide loans for such properties without title deeds. With title deeds, house owners can be able to transfer ownership to other people. Without title deeds, the beneficiaries cannot be able to formally sell their houses, resulting in most of them engaging in informal transactions, even though the owners of these low-cost housing are not allowed to sell the houses before eight years of being provided with the house. Thus, when owners sell their houses in the absence of title deeds, there is no evidence of transfer to the new owner, which often causes problems. Again, if the owner of the house dies, it creates many problems where some family members fight over the ownership of the deceased's property.

With all these problems associated with the absence of title deeds, many South African politicians have taken advantage of this housing situation and used it as a political campaigning tool. In the run-up to the 2016 local government elections, many politicians promised that the title deeds issue will be their main focus, for instance, the Gauteng MEC for human settlements, Paul Mashatile, as well as the Democratic Alliance's Johannesburg mayoral candidate, Herman Mashaba, who promised to provide the Soweto business people with their long-awaited title deeds overnight. Mogomotsi Mogodiri, who is Mashatile's spokesperson, pointed that the Gauteng province was committed to clearing the title deeds backlog by the end of 2018, with a budget of R2,6 million set aside for that (Mail & Guardian, 2016). The Democratic Alliance's leader, Mmusi Maimane also called on the government to provide people with title deeds,

*We must not accept that the ruling party builds our people inferior houses...What we are arguing is that everyone must have a title deed. When you deliver an RDP house, you must also give the owner a title deed...The ANC's policy says the owner of the RDP house must wait for eight years, we are saying as you deliver the house; give the person the title deed. It is their choice what they want to do with that property. It is their right in fact...People can use the title deed to create equity and go to the bank and borrow against it and can run a business from the house.*

Maimane argued that the provision of title deeds would bring back the dignity that Black South Africans were deprived of (Mail & Guardian, 2014). However, this issue of clearing

the title deeds backlog has been talked about since the days of Tokyo Sexwale as the human settlements Minister. This therefore shows that in as much as it is easier for politicians to promise to deal with it, the task calls for a great amount of effort and human resources. The process especially requires coordination by municipalities.

#### **4.4. SPEEDING UP THE PROCESSING OF TITLE DEEDS**

In an effort to find solutions for the delays in the processing of title deeds, the officials suggested the following:

*Obtain CRTs from deeds office registry first. Ensure section (1) certificates obtained on time for transfer.*

*Various departments should have a common goal, i.e. COGTA-Roads-ENGINEERS.*

*Municipality to obtain CRTs from deeds office registry first. Printing rates certificates immediately.*

*Municipalities should speed up their processes. At the moment, some officials favour certain conveyancers over others.*

*Conveyancers must be involved in obtaining necessary documents and applications of general plans.*

*The department of human settlements in conjunction with the municipalities should work hand in hand with the attorneys (conveyancers) attending to transfer.*

*Correct documents to be lodged, conveyancers to do their spadework*

*Compliance with deeds office processes.*

*Lodging of correct documents, conveyancers to do their homework in terms of pre lodgement searches*

The responses presented above clearly indicate the need to improve efficiency, especially with regards to the handling of the title deeds paperwork.

#### 4.5. PARTICIPATION IN THE HOUSING DELIVERY PROCESS

The post-apartheid government highlighted the important element of community participation in development, including the housing development processes. In that view, the democratic government acknowledges housing as a human right for all South Africans. To ensure this, the housing policy documents highlight a people-centred approach of community participation in the delivery of housing. This implies the active participation of the housing beneficiaries in housing development processes (Department of Housing 1994a). Participation also entails consultation with the relevant stakeholders, with regards to decision making processes and this result in empowerment, which is whereby the citizens gain control of the processes that affect their lives (Hesse-Biber and Leavy, 2011). Empowerment thus entails participation, involvement and engagement of community members (Baum, 2008). Asking the community members if they are involved in the decision-making processes regarding housing in their area, three of them indicated to have participated, while five of them pointed that they have never been involved in such processes. The officials said that they do involve the community members in the housing delivery processes in the following ways:

*Yes, we do sales campaign.*

*Yes- community members –councillors and tenants.*

*Municipality conduct advocacy sessions and sales campaign*

*Deeds office is office based on a team which constantly goes out on outreaches.  
Unfortunately, I have not done that*

*Having meeting at community halls to discuss the processes*

*Municipality hold community meetings via local councillors.*

*I have participated in outreach programmes and engaged communities, but only with title related issues.*

Even though the officials indicated to convene meetings with the community members, there is a tendency amongst the community members, of not attending such important gatherings. The majority of the public just does not see the essence of attending municipal meetings, yet their voice in municipal affairs is very crucial. Even though municipalities sometimes

announce the meetings in advance through various media like local community radios and local newspapers, the common thinking amongst community members is that municipal officials do not seriously consider our opinions, so why bother attending these meetings. That thinking is however not always true. Sometimes municipal officials cannot go ahead with planned projects because they would not have heard the public opinion and at the same time the law does not allow them to initiate some things without first consulting with the general public. This therefore creates problems, a situation whereby the public is invited for an imbizo, while it does not bother contributing to whatever needs to be discussed. In the end, the public blames the municipal authorities for not consulting with them regarding issues that directly affect them as citizens. In this regard, there are various ways in which municipal authorities can engage community members for combined decision-making processes. Local government legislations and policies clearly indicate that municipal authorities ought to be sensitive about public perceptions regarding municipal processes.

The fact that most of the community members indicated not being involved in the housing processes shows that the delivery process is not properly done and there is no transparency. The lack of cooperation between the officials and the community members indicates that the officials make the necessary decisions and only inform the community members after they have concluded the matters, something which frustrates the community members and often results in dissatisfaction with municipal services.

There are however many reasons why most community members do not bother participating in public affairs like the provision of housing. Initially, this indicates, on the part of the public, lack of understanding about their role, as well as the roles of different stakeholders in municipal affairs. Some community members do not realise the importance of their contributions in municipal processes hence, there is need to raise awareness amongst them, to conscientise them about the essence of their participation in public affairs. It also shows the existence of a poor relationship between municipal officials and the community members. The role of ward committees is to stand in the gap between the municipal officials and the community members, to mobilise community members to participate in municipal processes in order to make their voice heard, as well as to keep the community members informed about municipal affairs. However, some of the community members sometimes do not feel comfortable with the language that is used by officials when addressing them, thus, this inaccessibility of the English language becomes a hindrance to public participation. In this



regard, the importance of communicating using the language that is most accessible and understood by the majority of community members is noticeable. It is thus the responsibility of ward committees and councilors to ensure public participation in municipal processes.

In order to enhance communication between community members and the authorities, the public should be engaged in decision making processes, making the community members participate in development processes like the housing projects. Clear participatory guidelines should be provided to both, officials and the public, so that each stakeholder familiarizes with their roles in participating in public affairs, as it has been indicated earlier on that the majority of the community members do not know that they are mandated to contribute to municipal affairs. Instead, they often complain of the top-down communication strategies employed by municipal officials being ineffective and eventually affecting the planning and implementation of municipal projects. Within the housing delivery processes, the municipal authorities should be accountable in informing the public members about the development processes taking place in their communities.

The public should actively participate in their own development processes, the fundamental principle of democracy. Participating in the housing delivery processes ensures that the strategies implemented have taken into consideration the priorities and needs of the intended beneficiaries that are, generating livelihoods through the provision of housing, employment opportunities, as well as poverty eradication (Osman, Arvanitakis & Sebake, 2010). If the priorities of the intended beneficiaries are ignored, the housing development process becomes counterproductive (Gilbert, 2007). Bond and Tait (2003) also highlighted how the government failed to clearly appreciate the household dynamics of the South Africa society, citing the ineffectiveness of the top-down approach to housing development. In fact, an alternative approach to this could effectively address the poor housing processes and hence, the backlogs in the delivery of housing. Despite the rightful intention of the government to provide decent housing to the community and improve the people's quality of life, the process has however directly created a dependency culture which constantly culminates in the service delivery protests by the citizens.

#### **4.6. CHALLENGES EXPERIENCED DURING THE PROCESSING OF TITLE DEEDS**

The officials who participated in this study noted that there are several challenges that they encounter in their efforts towards processing title deeds. Some of the challenges are highlighted below:

*When processing, the beneficiary has already put people in to rent*

*People who were originally approved for these properties now have illegal tenants in occupation*

*Allocation of wrong site numbers to the beneficiaries. Unknown applicants on the register*

*Sometimes you find that the title deeds have not been released to clients. There are onerous title conditions that hinder transfer of properties*

*One property will be erroneously allocated / approved to more than one beneficiaries*

*Deeds are not separated at the deeds office*

*In registration, the title deeds are all treated the same with no difference in low/ high income housing*

In addition to the above, the officials were also asked what they think could be the challenges encountered by those beneficiaries who were not given title deeds. They provided the following responses:

*They cannot take loans to improve their property. Developments and planning won't allow any extensions if you don't have a title deed. You cannot sell without a title deed. In the event of death, problems arise.*

*Waiting too long for title deeds-cannot get finance for improvement to their houses*

*They cannot sell their properties as they don't have formal ownership. Some fight each other since they hold same allocation number provided by the municipality*

*They cannot sell the properties, in the event of the passing on the property cannot be transferred to the beneficiaries /dependents.*

*They cannot deal with their properties without title deeds.*

*They do not get the necessary information from the municipality (details of attorneys), they are just told that documents are in Pietermaritzburg.*

*They can't access financial assistance from finance institutions hence, they do not have security.*

*When they pass away, their immediate family members face problems with winding estate.*

The community members also indicated the same challenges, which include the fact that they cannot sell the houses without title deeds, they cannot do business, the number allocation of the houses is often confusing as it is common to find someone wrongly allocated a house, or someone having a house but has not been officially provided with one. Other cases are whereby those who have been officially provided with houses are still without housing because of such poor arrangements.

The information provided by the officials indicates the importance of title deeds. However, the fact that the absence of title deeds makes it difficult for the home owners to secure financing from the bank seems not applicable in this case. First of all, the people who are provided with these low-cost houses are those who earn very little or no salary at all. In that view, these people do not qualify to get housing loans from the banks, as it sounds too risky to grant them home loans. Again, the value of those houses is too low to qualify for bank loans. From the researcher's knowledge, banks often consider giving individuals building loans for a property which is valued at a minimum of R600 000, of which these low-cost houses are way below this amount. The financial sector does not want to risk financing the low-income housing, mainly due to the poor payment record of the beneficiaries.

It would therefore be sensible to argue on the grounds that the major challenge of not having title deeds has to do with the inability to transfer the property to the surviving family members, in the event of the death of the owner of the house. Moreover, the official transfer of property is a very expensive process which seemingly, was not designed with the poor in consideration. Another challenge is that the owners cannot be able to extend the property without the title deed. Thus, having a title deed implies the possession of an asset, as well as security of tenure, as indicated by one of the community members that having no title deed

makes them live in fear that someone might just come one day and chase them out of the house and they do not have evidence to prove that the house was allocated to them.

This reasoning is however unfounded and it shows that the majority of the community members are not informed about the housing subsidy benefits. The RDP housing system provides that beneficiaries may live in these houses for up to five years before they are provided with the title deeds. This shows lack of communication between the authorities and the beneficiaries of the housing system. Again, the other provision is that during that period, the beneficiaries are not allowed to sell the houses and if they intend to move to somewhere else, they are required to inform the relevant authorities. However, despite the legislation, many of these houses are being sold “informally” in the absence of title deeds, which has its own problems as the owner and the potential buyer get into some form of agreements which can be easily violated because of lack of official documents like title deeds.

Besides the selling of these houses, another common scenario has been whereby those individuals who do not qualify for these freely provided houses falsify their documents in order to gain access to them and once they have been provided, they extend these houses and construct expensive structures for rental purposes. Other well-off citizens buy as many houses as they can get from those who would have been allocated, then they improve the structures for rental purposes while they stay in their low density suburbs. As indicated by the officials, this creates problems as it becomes difficult to identify the original owners of the houses. The selling of houses has been linked to the high levels of unemployment, as well as the inability to afford to maintain the house because of the additional costs that they would have to incur, for instance, that of water and electricity, hence, the beneficiaries sell the houses in exchange for quick money. At the same time, the willing buyers, because they are financially sound, take advantage of these vulnerable individuals and rob them of their housing which could be the only asset that the individual has but does not realise it (Gilbert, 2014).

For most of the beneficiaries of these houses, life can be expensive such that their municipal debt accumulates or they would have the water and electricity supply terminated, which often results in illegal connections. In this view, Gilbert points that simply providing housing to the poor communities does not completely eradicate their hardships and when most of them are provided with housing, they take that as an income generating asset thus, they still go back and stay in the informal shacks while renting out their houses. This brings back the issue of

engaging the public regarding their development processes for them to pinpoint their priorities and needs. It has been indicated that one reason why beneficiaries ‘dispose’ of their houses is because they have never been part of that development process from the beginning, so they do not have any sense of ownership to the houses. Thus, the issue of why some beneficiaries prefer to go back to their sordid conditions in the shacks deserves further investigation.

While some housing beneficiaries rent out their houses, the majority of them erect backyard structures for rental purposes. This is known as back-yarding. The 2011 census showed that about 1.25 million households dwell in backyards. Most of the people who live in backyards (either shacks or formal structures) cannot afford formal accommodation (SALGA, 2014), while those who provide this kind of accommodation need a source of income. This kind of set up has been disapproved for safety and health reasons, however, “back-yarding is a multibillion-rand submarket of the rental sector, which can play a positive role in city building and the development of sustainable human settlements if municipalities focus their interventions on utilising, guiding and facilitating its positive aspects” (SALGA, 2014).

The non-provision of title deeds by the relevant authorities has also created another problem which was mentioned by one of the community members, a situation whereby in the system, someone has been allocated a house, but in reality, that someone is homeless and desperate for a house. This often happens with those people who apply for houses in one place, then they relocate to other places and do not follow up on their applications. The housing authorities might look for the person but without success, then they get allocated or occupied by someone else, which is difficult to prove who the owner is because of the lack of title deeds. Some of those who would have been allocated housing find it difficult to locate their houses as they are sometimes physically not available but on paper, they would have been allocated. Such individuals would still not have access to proper housing and it would remain difficult for them to be reallocated since the records would be suggesting that they have been allocated housing (the Socio-Economic Rights Institute (SERI), 2013). SERI indicates that such allocation challenges are often a result of illegal occupation, corruption and fraudulent actions. It is further indicated that the allocation of housing is never a transparent process as it is corruption laden and seems to take place based on power and access to resources, while ignoring its primary purpose of catering for the poor household needs (SERI, 2013). The top-down housing delivery approach puts the beneficiaries at the receiving end and the municipal

authorities on the giving end, instead of making the beneficiaries steering the development process. This goes back to the issue of community participation discussed earlier in this chapter. It is thus essential to ensure that the allocation processes are transparent in order to reduce elements of fraud and corruption.

#### **4.7. PARTICIPANTS' GENERAL FEELINGS ABOUT THE IMPLEMENTATION OF THE LOW-INCOME HOUSING**

Responses from the community members indicated that they were happy about the provision of the low-cost housing, even though they said it takes too long to be provided with one. Some of the responses that emerged from them are presented below:

*It's good for those who get them in the proper manner, but some are crying because their houses have been sold*

*It's a good gesture, but the houses are too small and others have not received them since they applied*

*It's good, especially for those who have very little income, but the way the houses are allocated poses many problems*

*The municipality is doing a good job for those who do not have the means to buy property*

*They are doing a very good job, but then what happens is that you have to be known by the municipal officials for you to be allocated a house*

The last response presented above clearly shows how the allocation of housing has become a political issue, as well as how the process is encouraging corruption and nepotism. This is not fair for the ordinary citizen who needs a place to call a home. This implies that the poor citizens who do not know any of the municipal officials will die poor because he or she is not “connected”, as they call it. Most of the officials hailed the housing subsidy system, arguing that it has helped many poor South African households. Below were some of the responses from the officials, regarding their perceptions about the housing delivery system:

*It benefits those that cannot afford housing, this decreases slums/shacks and creates better environment for the community. It also improves lives of people and they can live in dignity.*

*Very good-people who previously resided in shacks are now provided with property built structures with infrastructure.*

*Beneficiaries misuse the right of owning low-income housing... low housing improves lives of people and gives dignity to historically disadvantaged communities.*

*It's being abused.*

*It is for a good cause, it has however been abused.*

*So far it should cater for the missing link, those who are employed but who do not qualify for loans (shortage bonds) with financial institutions*

*It has helped in giving people dignity by affording them houses.*

*It has been a great help in dealing with backlogs.*

*It has helped with granting access to housing to low-income earners.*

Despite acknowledging how the poor have benefited from the low-cost housing, the officials also pointed how the housing delivery processes have given rise to issues of fraud and corruption which is linked to the allocation of housing. Many politicians and government authorities have been embroiled in corruption charges due to their interference or manipulation of the housing allocation process (Gilbert, 2014). The officials often manipulate the housing waiting list, engaging in corruption and favouritism, where it is common to find the houses being sold to people who might have never registered with the municipality as being in need of housing. In reality, the waiting list has proven to be just but a myth as many people tend to 'jump the queue' (SERI, 2013). As a result, many officials get fired because of maladministration, fraud and corruption practices. Some of the officials allocate themselves these housing subsidies, despite the fact that they do not qualify (Govender, 2012). Given these instances, one can argue that the housing delivery system suffers lots of loopholes, which in reality contribute to most of the problems that inhibit the effective delivery of housing. The current housing delivery approach indicates that the government has failed in many ways in this regard, the reason being its failure to concentrate on the needs of the poor

and to effectively utilize the available resources. The implication is that the government will there fail to meet the housing needs of its citizens hence, the need to perhaps diversify by adopting alternative delivery strategies. In terms of recommendations as to what could be done to improve the processing of title deeds, the officials had this to say:

*Establish township before allocating properties so there is no issue of processing title deeds*

*People should only be allocated to a house if the municipality is in a position to effect transfer of that property.*

*Municipality has to secure enough land before building properties for low-income earners*

*Improve the delivery of title deed*

*Municipalities should do more to alleviate any hardship that is likely to be encountered by conveyancers*

*To involve experienced conveyancers who have knowledge enough to assist with the process. Black and previously disadvantaged ones*

*The government should allow conveyances to transfer property to all home owners and must be done within a stipulated period of time*

*They must be processed to coincide with occupation of those houses so as to avoid disputes, lost titles and delays in issuing of title deeds*

*They should be simple by following Act 113/91 and thus eliminate the risk of rejections*

In addition to the above, the officials further noted that most community members are not patient enough to wait for their properties during the period in which the municipality would be busy constructing them. The result is some of them tend to relocate and do not appear during the allocation of houses, which then causes problems when sometimes they come back later to claim their houses or they never come then their house gets occupied by an illegal person. The officials also emphasised that people should be given title deeds within the five years of being allocated the houses, not spending sixteen years without them, like what some



community members indicated. The advantages and disadvantages of having title deeds have been highlighted throughout this chapter. Essentially, it was noted that the human settlements, rural development (deeds office) and municipality must work together in ensuring low-cost housing title deeds are prioritised.

#### **4.8. CONCLUSION**

This chapter has presented the data collected from the participants of this study. The results of the study have indicated that the processing of title deeds occurs in many stages and thus, the more people are engaged, the more the process gets complicated. It has also been highlighted that unlike the common belief that title deeds make it possible for the low-income earners to get financial assistance, this is actually a myth because title deeds in this case are not enough to attract credit. There are many other factors that financial institutions consider before providing building loan to beneficiaries.

A number of challenges have been identified as causing the delays in the processing of title deeds. The results of the study also indicated the essence of engaging community members in development processes that affect them. It was shown that providing people with housing is not the solution to their problems, as indicated in how some of them even vacate the houses that they would have been allocated due to their failure to meet other costs related with staying in these houses. Thus, it was emphasised that community members should be consulted as to what their needs and priorities are, so as to enable to deal with some of their problems. However, the first step in solving some of the problems being encountered by community members is to issue them some title deeds, from which they could be able to empower themselves through various activities when they can be able to access different forms of financing so that they can improve their livelihoods. Without title deeds, beneficiaries do not have any proof of ownership hence, are not able to do anything except living in these low-cost houses. In other words, the issuing of title deeds to the beneficiaries of the low-income housing should be a priority for the government.

The analysis of the data indicated that there is a lot that needs to be done concerning the issuing of title deeds to low-cost housing beneficiaries. Of course, despite the challenges, the government has to be applauded for the delivery of millions of these low-cost housing subsidies, which has been described as an attempt to deal with the serious material

deprivation caused by the previous apartheid government. However, the vastness of the housing programme causes major backlogs in the processing of title deeds for the beneficiaries. With the government's plan of legalising and upgrading most of the informal settlements, this implies more burden on the deeds registry system.

## **CHAPTER 5**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **5.1. INTRODUCTION**

This chapter concludes this study. In that view, it is important to reiterate on the focus of the study. The purpose of this study was to investigate the reasons for the delays in the processing of title deeds for the low-income housing subsidy, as well as how it affects the beneficiaries of these projects. Qualitative questionnaires were designed to collect data from the relevant authorities in the processing of title deeds, as well as from the beneficiaries of the housing subsidy. Thus, the first chapter provided an overview of the study by highlighting important aspects like the background information to the study, the problem statement, the rationale, aims and objectives, as well as the significance of the study. Chapter 2 described the literature review and theoretical framework underpinning the study, while Chapter 3 discussed the methodology employed. In Chapter 4, the collected data were presented and analysed. In that view, the section that follows provides the summary of findings.

#### **5.2. SUMMARY OF FINDINGS**

##### **5.2.1 Objective number 1: Causes of delays in the issuing of title deeds**

Ironically, the officials from the municipality, the attorneys and those from the deeds office all indicated that the processing of title deeds takes from two to eight weeks. Now, the big question would be; how come some people have been staying in the same house for fifteen years without being given a title deed? This therefore calls for further investigations, as to why it is taking up such a long time before beneficiaries are given title deeds. From some of the beneficiaries, some of the authorities do it intentionally not to give title deeds, so that there occur some loopholes which would allow them to engage in corrupt and fraudulent activities like selling the houses to other people who do not qualify for these houses. Still on that note, it also emerged that some of the beneficiaries cannot afford to stay in the houses that they were allocated, resulting in them renting out these houses so that they get an income for their daily bread. Some beneficiaries even engage in informal or illegal activities of

selling these houses, despite the fact that the houses are not officially documented. They sell the houses to those people who are well off and who then extend these structures for rental purposes. As a result, by the time the relevant authorities want to verify and give out title deeds, the original owners of the houses would have vanished, making it difficult to process the paperwork.

### **5.2.2. Objective number 2: The procedures followed by officials in issuing title deeds**

From the officials' responses, the processing of title deeds is supposed to take from a few weeks up to three months. However, the fact that the process involves a lot of personnel makes it such a long and winding one, because some of the officials cannot deliver timeously, as well as the lack of necessary resources such as skilled and experienced conveyancers. As a result, it is sometimes impossible to pinpoint who is accountable or responsible for the delays in the process. However, the fact is that if one person or department fails to honour their responsibility, it affects all other stakeholders and thus, delays the whole process of issuing title deeds.

### **5.2.3. Objective number 3: Challenges faced by beneficiaries without title deeds**

The importance of title deeds was highlighted by the beneficiaries who participated in the study, when they said that they have been staying in the houses that they have been allocated more than fourteen years ago, but without proper documentation. As a result, these beneficiaries keep living in fear that one day they might be evacuated from these houses since they do not have evidence to prove that indeed the houses were allocated to them. Because of lack of proper documentation in form of title deeds, the beneficiaries pointed a number of challenges that they have to deal with on a daily basis. Amongst them is the fact that they cannot secure loans from the bank to improve or extend their structures, while at the same time they cannot follow up and do the proper registration themselves because they are financially crippled, considering the exorbitant costs of transferring property (Gilbert, 2002: 4). Again, the beneficiaries indicated that the unavailability of title deeds causes confusion in terms of who was allocated where exactly, resulting in some residents living in the houses which do not belong to them according to what could be in the system. In other instances, some people remain vagrants sleeping in the streets while in the system it shows that they

were allocated housing, but there is no proof. What happens then is that those who are supposed to be benefitting from the housing subsidy might not be benefitting, while those who do not qualify for the housing subsidy are the ones residing in these houses. The beneficiaries also indicated that the absence of title deeds causes problems in the event that the person allocated the house dies, the remaining family members might have disputes as to the ownership of the houses.

Despite the officials indicating that they involve the community members in the important matters of the housing, some of the beneficiaries who participated in this study argued that they had never participated in the decision-making processes concerning their development. This shows lack of transparency. Despite this, literature highlights that citizens ought to participate in their own development matters in order for them to benefit more from them. Citizens get a sense of empowerment if they are involved in matters that concern them. It has been noted that one of the reasons why community members take to the streets to protest is because authorities do not discuss with them their needs and priorities, then they end up focusing on the areas that are of not priority to the community members.

With reference to the findings of this study, as well as the management theory of public administration described in Chapter 2, one can conclude that the personnel responsible for the issuing of title deeds are far from efficiency and effectiveness in this regard. To reiterate, it has been highlighted in Chapter 2 that management involves planning, organizing, directing and controlling. In this view, management ought to ensure that the operations of the organisation are directed towards achieving its objectives. This does not seem to be the case with the management team vested with the powers to process title deeds. In fact, the team involved seems to be lacking the important skills to effectively discharge their roles and these include leadership skills, being people-oriented, as well as the decision-making skills. The lack of these important skills is a contributory factor to the delays in the processing of title deeds. It has been indicated that the dual responsibility of public service officials involves ensuring that administration is running effectively within departments, while at the same time ensuring that other functional activities are being performed effectively and efficiently. Based on the findings of this study, this is not evident amongst the officials responsible for the

processing of title deeds. Instead, the officials seem to lack managerial skills mentioned earlier.

In view of that, it is highly important for the officials to consider improving on their functions which include planning: they should clearly outline what needs to be done, and how; organizing: their formal structures of authority should be established, where work has to be arranged and coordinated along that; staffing: they should attract the right people and train them for efficient execution of the organisational activities and finally, directing: the relevant officials should give instructions and make informed decisions, with the needs of the people in mind. These activities could possibly help improve the situation regarding the processing of the title deeds, because as long as the situation remains the same, there is going to be increases in the backlogs, resulting in many people living in fear of being evacuated from their houses because of lack of proof of ownership.

### **5.3. CONCLUSIONS BASED ON THE FINDINGS**

The fact that the officials said the processing of title deeds should take a few weeks, yet in reality it's taking many years, could imply incapacity on the part of these officials. Municipal authorities are tasked with the responsibility of ensuring that they meet the needs of their communities, but it seems the majority of them just do not have the knowledge and skills required in this regard. The result is obviously poor in its nature. From the previous chapter, the authorities pointed to different challenges associated with the processing of title deeds and these include poor documentation, incorrect drawing up of deeds, printing of rates, municipalities delaying the release of figures which are needed for rates clearance certificate, to mention a few. This indicates some shortfalls on the part of the people involved in these processes, which often results in the backlogs. It is thus important that the government invests in the knowledge and skills of the public administration authorities, in order to improve service delivery in general.

The non-participation of community members in the housing developing processes raises questions of whether they do have ward committees in their area. The roles of ward committees include mediating between the municipal authorities and the community members, representing the community members in official meetings where the public cannot participate, as well as giving feedback to the community members. From this description, the

important role of ward committees as communication channels is highlighted. Now, because of the non-existence of ward committees, most of the communication between the authorities and the community members becomes top-down, meaning that officials just impose whatever they want on the community members without necessarily consulting with in important matters.

The top-down kind of approach implies that the concerns of the communities are not considered since they do not get involved in any way with the municipal officials. Instead, the officials just implement whatever programmes or projects without prior discussion with the affected communities. In contrast to this, the Bill of rights acknowledges participatory democracy, whereby citizens should participate in decision making processes that affect them. The participation of community members results in responsible and informed citizenry that has got a sense of ownership in development processes. The implication is that community members should be consulted prior to making the ultimate decisions, especially with regards to service delivery because they are important stakeholders in this regard. Unfortunately, the participatory development approach seems to be active at the national level where policy making takes place, while not visible at the grassroots level.

The above discussion highlights the important role of local government in service delivery. As argued earlier, the fact that ward committees are not visible to represent the public shows that community involvement in development projects is limited. This however contravenes the Municipal Systems Act (2000) which highlights important elements of transparency, accountability, consultation and efficiency in municipal processes, particularly through structures like ward committees to steer community participation in this regard. The Act thus articulates the role of developmental local government, as well as good governance by prioritising the citizens as envisioned in the Batho Pele principles. In this view, the fact that the community members indicated that they have never participated in the housing processes implies that there could be an element of dissatisfaction in them, resulting in the failure by the authorities to involve them in matters that affect their lives. It shows that the community members' decisions, views and perceptions are not being put into consideration hence, they are being deprived of the sense of empowerment, because their social and physical needs could be sabotaged in the process. Section 152 of the Constitution highlights the "the involvement of communities and community organization in the matters of local government". This implies that the relevant municipality has the responsibility to facilitate

the development of sustainable settlement through the provision of adequate services to the citizenry and in this particular case; it involves working with the housing beneficiaries towards improving their lives.

## **5.4. RECOMMENDATIONS**

Based on the findings presented in the previous chapter, as well as the conclusions made above, the following recommendations could help improve the processing of title deeds for the low-cost income housing.

### **5.4.1. Effective housing policies and legislations**

First of all, adequate housing for the poor citizens should be one of the priorities of the local government. This therefore entails implementing policies and legislations that support the effective housing process. For instance, the legislations and policies should encourage transparency, as well as the smooth processing of housing allocation. It has been indicated that cases of fraud, nepotism and corruption are rampant in the housing allocation system. Thus, the policies should be regularly monitored and evaluated and therefore revisited so as to detect some of the loopholes that cause maladministration.

The results of the study also indicated that most of the people living in the low-income houses are not the original owners. The beneficiaries should be educated on the dangers of illegally selling the structures that would have been allocated to them, as these causes lots of inconveniences when it comes to the processing of title deeds. Thus, the housing policies and legislations should emphasise the repercussions of illegal dealings involving the low-income housing.

### **5.4.2. Early establishment of township registers**

In this study, the absence of township registers featured as a main cause in the delays in processing title deeds. It is thus recommended that the townships be established prior to allocating houses. In everything, it is important to set time frames, as this helps to ensure that tasks are completed by the stipulated times. This also applies to the processing of title deeds. It has been indicated in the study that the processing of title deeds should take up to two



months, or mostly fifteen days if everything is in order. Surprisingly, community members indicated they have been staying in their houses for fifteen years without title deeds. This sounds ridiculous, but that is the common scenario in many municipalities. One would therefore wonder if there are any investigations as to what could be causing the delays in the processing of title deeds. One community member indicated that “they just don’t care about our needs”, this sounds very true, when someone has to live in a house for more than a decade without a title deed that should be provided within a few days. It is thus important to set time frames, in as much as it is important to regularly do monitoring and evaluation of the officials involved in the handling of title deeds documents.

#### **5.4.3. Encourage community participation**

This study established that community members are not adequately engaged in matters that affect their lives and in this case, the issues regarding the distribution of the low-cost houses. It is thus recommended that policies should also reinforce the importance of community participation in housing processes. In this regard, ward committees should be actively engaged in municipal processes in order to ensure effective communication between the community members and the municipal officials. This also includes ensuring that communication between officials and citizens is not just top-down, but also, bottom-up. Communication channels should be diversified in order to cater for all the citizens.

Essentially, the study revealed many problems associated with the processing of title deeds. In this respect, local government need to ensure a risk management plan, or a contingency plan which caters for the recurring problems, especially during the implementation process of the housing project. Above all, a participatory development approach to housing should be encouraged, in order to ensure that the needs and priorities of communities are catered for.

#### **5.4.4. Competent officials**

The results of the study indicated that some of the delays in the processing of title deeds are a result of some officials not doing their jobs effectively. Some of the respondents amongst the community members argued that most of these officials just do not know how to do their jobs. The officials themselves also pointed to issues like poor drawing of title deeds, wrong allocation of housing numbers, inexperienced conveyancers, as well as the delays in issuing

clearance certificates. All these are administrative issues, which can be resolved if the right people are put into place. It is therefore recommended that highly qualified personnel are hired in order to improve the effectiveness of the housing process. An alternative is to regularly up-skill the existing officials, in terms of their knowledge and skills, especially on how to process information. The ineffectiveness of the personnel also highly contributes to backlogs in municipal processes, as the officials tend to take longer than necessary in processing important documents.

### **5.5. LIMITATIONS OF THE STUDY**

This particular study focused on the title deeds issue at an informal settlement in the KwaMashu area in KwaZulu-Natal. In that regard, the results of the study may not be generalised or might not be applicable in any similar situations.

### **5.6. AREAS FOR FURTHER RESEARCH**

This study focused on the delays in the processing of title deeds for the low-income housing. The results of the study have been presented. Another study could compare and contrast the issuing of title deeds for these low-income housing with that of other types of properties. The aim would be to establish the differences in the processes involved, if there are any. Another interesting study could also investigate the housing delivery policies, in order to establish the challenges associated with the implementation of the policies. This would be essential to evaluate if these policies do indeed affect the processing of title deeds.

### **5.7 CONCLUSION**

This chapter concludes the study. In that view, the summary of findings is highlighted as each and every objective is indicated, as well as how it has been fulfilled. The conclusions based on the findings are presented, followed by the recommendations of the study. The limitations of the study are also presented, alongside the areas for further research.

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## **APPENDICES**

### **APPENDIX 1: ETHICAL CLEARANCE CERTIFICATE**